tion, and prescribing the duties of such boards of equalization,"

Have had the same under consideration, and beg leave to report it back to the Senate with the recommendation that it do pass, and be not printed.

Willacy, Chairman; Murray, Harper, Meachum, Paulus, Weinert, Peeler, Holsey, Sturgeon.

(Floor Report.)

Austin, Texas, April 10, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Agricultural Affairs, to whom was referred

House bill No. 115, A bill to be entitled "An Act to provide for the maintenance of an agricultural experiment station for the experimental culture of tobacco, to be located in the Seventeenth Representative District, and making necessary appropriation therefor, and declaring an emergency,"

Have had the same under consideration, and beg leave to report it back to the Senate with the recommendation that it do pass, and be not printed.

Mayfield, Chairman; Murray, Cofer, Perkins, Willacy, Kellie, Paulus, Holsey.

Committee Room
Austin, Texas, April 10, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Engrossed Bills have carefully examined and compared

Senate bill No. 17, A bill to be entitled "An Act to amend Articles 1544 and 1546 of Chapter 2, Title 32 of the Revised Civil Statutes of the State of Texas of 1895, and to repeal all laws in conflict therewith,"

And find the same correctly engrossed.

WARD, Chairman.

Committee Room,
Austin, Texas, April 10, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Insurance, Statistics and History, to whom was referred

House bill No. 65, A bill to be entitled "An Act to provide for the incorporation, organization, regulation and supervision of co-operative life insurance companies in this State, and providing penalties for violations of this act, and declaring an emergency,"

Have had the same under consideration, and I am instructed to report it back to the Senate, with the recommendation that it do pass and be not printed.

HUDSPETH, Chairman.

TWENTY-FIRST DAY.

Senate Chamber,
Austin, Texas,
Sunday, April 11, 1909.

Senate met pursuant to adjournment, Lieutenant Governor A. B. Davidson presiding.

The roll was called, a quorum being present, the following Senators answering to their names:

Adams.	Murray.
Alexander.	Paulus.
Brachfield.	Peeler.
Bryan.	Perkins.
Cofer.	Real.
Greer.	Senter.
Harper.	Stokes.
Hayter.	Terrell of Bowie.
Holsey.	Terrell of McLennan.
Hudspeth.	Thomas.
Hume.	Veale.
Kellie.	Ward.
Masterson.	Watson.
Mayfield.	Weinert.
Meachum.	Willacy.

Absent.

Sturgeon.

Prayer by the Chaplain, Rev. H. M. Sears.

Pending the reading of the Journal of yesterday, on motion of Senator Hayter the same was dispensed with.

The Chair declared the morning call concluded.

FIRST HOUSE MESSAGE.

Hall of the House of Representatives,
Austin, Texas, April 11, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has adopted the Free Conference Committee report on Senate bill No. 26.

Respectfully,
BOB BARKER,
Chief Clerk, House of Representatives.

MOTION TO DISCHARGE COMMITTEE.

Senator Terrell of Bowie here moved that in view of the fact that the Free

Conference Committee on Senate bill No. 4 had not reached an agreement, and it was known that they could not agree, that said Free Conference Committee be discharged and a new committee appointed, on part of the Senate.

The motion was ruled out of order by reason of there being no report before the Senate from the said committee.

HOUSE BILL NO. 55.

On motion of Senator Senter, the regular order of business (House bill No. 34) was suspended, and the Senate took up, out of its order, House bill No. 55, by the following vote:

Yeas—28.

Adams.	Peeler.
Alexander.	Perkins.
Bryan.	Real.
Cofer.	Senter.
Greer.	Stokes.
Hayter.	Terrell of Bowie.
Holsey.	Terrell of McLennan.
Hudspeth.	Thomas.
Hume.	Veale.
Kellie.	Ward.
Masterson.	Watson.
Mayfield.	Weinert.
Meachum.	Willacy.
Murray.	
Paulus.	

Present—Not Voting.

Brachfield.

Absent.

Harper. Sturgeon.

The Chair laid before the Senate, on second reading,

House bill No. 55, A bill to be entitled "An Act defining and regulating fraternal beneficiary associations and repealing Chapter 115 of the General Laws of the Twenty-sixth Legislature of the State of Texas, as amended by Chapter 86 of the General Laws of the Twenty-seventh Legislature, and by Chapter 113 of the General Laws of the Twenty-eighth Legislature, and by Chapter 106 of the General Laws of the Twenty-ninth Legislature."

The committee report, which provided that the bill be not printed, was adopted.

Senator Hudspeth offered the following amendment, which was read and adopted:

Amend the bill by adding the following at the end of Section 27, page 13, of the printed bill: "Pending, during or after an examination or investigation of any such association whether domestic or foreign, the Superintendent of Insurance and Banking shall make public no statement, report or finding, nor shall he permit to become public any statement, report or finding affecting the status, standing or rights of any such association until a copy thereof shall have been served upon the president or secretary or corresponding officer of such association, nor until such association shall have been afforded a reasonable opportunity to answer any such statement, report or finding and to make such showing in connection therewith as it may desire. If such statement, report or finding shall not be withdrawn after such hearing, it shall not thereafter be made public except in connection with the answer or explanation of the association concerned."

Senator Hayter offered the following amendment:

Amend the bill by striking out the following Section 26, and renumbering the balance of the sections to correspond numerically.

EXECUTIVE MESSAGE.

The following message from the Governor was received and read to the Senate:

Executive Office,
State of Texas.

Austin, Texas, April 10, 1909.

To the Legislature:

The Constitution of this State imposes upon the Governor, among other things, the duty to "recommend to the Legislature such measures as he may deem expedient." Compliance with this provision of the Constitution is always the source of much annoyance to servants of special interests who may wish to serve their masters without protest from the Executive. However, under the Constitution, it is not only my privilege, but my duty to communicate by message with your honorable bodies, and in all reasonable ways to impress upon you the importance of such measures and the necessity for the enactment or repeal of such laws, as may appear to me to be demanded for the good of the State and for the welfare of all of the people. This duty I have at all times undertaken in an appropriate way to perform. The carpings of the hired lob-

byists may be echoed in our legislative halls in criticism and denunciation of the Executive, but no man has yet denied that I have acted within my duty and with fidelity to the masses of the people. In the contest for honest legislation and good government, I have never asked any quarter and will extend none. I have, without the semblance of dictation, but frankly and in a spirit of co-operation, sought the assistance of the Legislature, and have urged the enactment of needed and wholesome laws. I have respected the Democratic platform demands as good faith required me to do, and, as I believe, good faith requires of a Democratic Legislature. I have at all times sought to promote the welfare of all the people, and the extent to which I have received the co-operation of your honorable bodies, up to this time, is well known to the people of Texas. The most infamous lobby that ever trampled upon the will of the people has swarmed about this capital from the beginning of your Regular Session until this hour. The farmer is busy in his field. He cannot come to our capital to protect his interest. He relies upon you and upon me. He signs petitions and sends them by mail. To some, these petitions from the farmers, merchants and working men are irritating. It is their only way to be heard. The right of petition is sacred and the faithful public servant will not scoff at the petition of those who do not, and would not, hire professional lobbyists.

I have interpreted the Democratic platform without the aid of the liquor lobby, the railroad lobby, or of the Commercial Secretaries' lobby, which last mentioned instrument is the nucleus around which is gathered every selfish interest now represented at the capital. Its headquarters, established in Austin upon the assembling of this Legislature, with the evident purpose of directing legislation, is supported from a source unknown to you or to me. We can only surmise from the character of its work. I have interpreted the platform as I understand it, and as the people understand it, and not according to the view of those interests or of those politicians, who have shown such a marked activity in their efforts to defeat all legislative action, except to pass an appropriation bill and go home. A Legislature that is not competent to pass needed laws demanded by the people is certainly not competent to appropriate the taxpayers' money.

A law providing for the guaranty of deposits in State banks was demanded and the people mean it. The National platform and the State platform demanded this legislation, because the people demand it and have the right to demand it. The depositors have asked for a bank guaranty law. Not a bond law, with only the right to bring a suit. Such a plan as proposed is, I believe, a sham and a fraud that would liquidate every State bank in Texas, notwithstanding it may have the support of good men, who are themselves deceived as to the practicability of such a scheme. Those who believe that such a subterfuge can be justified before the people are deceiving themselves. When the people deposit their savings in a bank, they have a right to security, and when the State authorizes a corporation to receive such deposits, it is in duty bound to provide appropriate safeguards for the stockholders and depositors. When the bank lends its money, it requires ample security, and should do so. When a bank holds the people's money for profit, it should give the depositors appropriate security. The guaranty of deposits demanded by the National and State platforms, contemplates a guarantee system by which each bank shall be guaranteed by all banks to the extent of the fund provided for that purpose, and that an adequate fund can be created and maintained by law with only slight burdens upon the banks, cannot be denied. As the law now stands, nobody is protected but the banker, and we will fall short of our duty to the people, if we fail to protect the depositors and their savings by an effective law. The system proposed by the Democratic platforms would make our banking system better and stronger, it will give stability and confidence, and stimulate development all along the line. I have taken the Democratic party at its word, and have reason to believe that legislators holding Democratic commissions, are in duty bound to keep the faith.

Your Regular Session of sixty days was expensive and of little value to the people. Not a single platform demand was enacted into law; one was defeated, and you adjourned without even considering the appropriation bill; whereupon the lobby applauded and it is not strange that you received through the newspapers the felicitations of the chairman of the Republican Executive Committee of this State. Under the circumstances, it was my plain duty to call an extra session of the Legislature, and this I did, to the end that the people may have

the laws that they needed and had demanded. Good men and sterling Democrats, in both the Senate and the House of Representatives have battled at every step during the Regular and Called Sessions for just laws, good government, and for the integrity of the Democratic party. The records of these loyal Democrats have been written in the proceedings of the Legislature and an appreciative constituency will reward them, just as surely as they will smite the public servants who betrays them.

Probably the boldest, the most arrogant and the most formidable lobby, made up of the combined selfish interests, that ever assembled at the capital, gathered here upon the assembling of the Thirty-first Legislature to pester you and to hinder and defeat the popular will. Just what they have done, I do not know; but that they are still hovering about this capital, I do know.

The legitimate representative of a legitimate interest is entitled to be heard, and there are those who have come here in an orderly and in a legitimate way and have been heard before committees upon subjects of legislation. Upright men upon legitimate missions here are entitled to be heard and are entitled to courteous treatment on our part, but the professional lobbyist, who deals in deception and fraud, and whose mission is to defeat and throttle the will of the people, should have no part in making the laws or fixing the policy of our State, but should be driven from the presence of honest men.

Altogether your honorable bodies have been in continuous Regular and Called Sessions since January 12. It will hardly be denied that everything that has been done in the way of legislation by the Regular or Called Session could have been done in ten days, and then the appropriation bill could have been considered and passed. And it cannot be denied that everything demanded by the Democratic platform, together with all other needed legislation, could have been properly considered and disposed of in less than one-half the time that this Legislature has been in session.

Trainload jaunts over the State, frequent adjournments, filibustering, and the interference of a trained and organized lobby, sent here by selfish interests which combined in an effort to defeat all legislation in behalf of the masses of the people, have so far contributed to the failure of the Legislature to meet the full expectations of the people. This condition makes another called session absolutely necessary. Nearly ninety days—and probably the most expensive ninety days in the history of legislation in Texas—has been consumed and much of that which should have been done long ago, remains for another called session. Without ill will towards anyone, and only with feelings of deep regret for conditions, to the creation of which I did not contribute, I have addressed this message to the Legislature.

Actuated by a sense of duty to the people, who have honored me and are trusting me, I have undertaken to meet the situation and deal with it as I find it. If the Democratic party is to be ignored and discredited, and if the people are betrayed, I am determined in so far as I am able, to fix the responsibility. If there are those who may thus prove themselves unworthy of the people's confidence, the people will and should know them. The overwhelming majority of the membership of the House of Representatives, and many of the members of the Senate are to be commended for the splendid record made during the Called Session. I have always believed, and still believe, that a majority of the members of this Legislature, taken as a whole, are true to the people, and I hope and believe that they will yet find a way by which they may redeem their own pledges, and the pledges of the Democratic party made to the masses of the people of our State. The issue here is understood by the people.

T. M. CAMPBELL,
Governor of Texas.

At the conclusion of the reading of the above message, Senator Senter moved that the message be referred to a Special Committee of five Senators, to be appointed by the Chair, for the purpose of consideration.

Senator Brachfield made the point of order on the motion, that the Senate had no right to refer same to a committee, and that nothing could be done with it save printing same in the Journal.

Senator Watson made a point of order to the point of order that the message by the Governor did not come within the constitutional power providing for the Governor to present messages to the Legislature, in that it did not submit subjects for legislation.

Pending discussion on the matter, the Chair, Lieutenant Governor Davidson, held that the motion of Senator Senter, that the message be referred to a Special Committee, was in order, in that the message did not recommend legisla-

tion, etc., which had the effect of overruling the point of order by Senator Brachfield and sustaining the one by Senator Watson.

Senator Cofer offered the following motion, as a substitute:

"I move, as a substitute, that the message of the Governor be printed in the Journal of the Senate for the information of the Senate."

Senator Senter made the point of order on the substitute, that it was not a substitute, in that the message would be printed in the Journal anyway, which point of order was sustained. Senator Murray also made a like point of order, and both were ruled on at the same time.

Action then recurred on the motion by Senator Senter, and pending discussion, Senator Alexander moved the previous question on the pending motion by Senator Senter, which motion being duly seconded, was so ordered by the following vote:

Yeas—28.

Adams.	Murray.
Alexander.	Paulus.
Brachfield.	Peeler.
Cofer.	Perkins.
Greer.	Real.
Harper.	Senter.
Hayter.	Stokes.
Holsey.	Terrell of McLennan.
Hudspeth.	Thomas.
Hume.	Veale.
Kellie.	Ward.
Masterson.	Watson.
Mayfield.	Weinert.
Meachum.	Willacy.

Nays—2.

Bryan.	Terrell of Bowie.

Absent.

Sturgeon.

Action then recurred on the motion by Senator Senter to refer the message to a Special Committee for the purpose of consideration, etc.

The motion was adopted by the following vote:

Yeas—17.

Adams.	Meachum.
Greer.	Murray.
Hudspeth.	Paulus.
Hume.	Peeler.
Kellie.	Perkins.
Masterson.	Senter.
Stokes.	Weinert.
Terrell of McLennan.	Willacy.
Watson.	

Nays—12.

Alexander.	Holsey.
Brachfield.	Mayfield.
Bryan.	Terrell of Bowie.
Cofer.	Thomas.
Harper.	Veale.
Hayter.	Ward.

Present—Not Voting.

Real.

Absent.

Sturgeon.

In accordance with the above motion, the Chair announced the following as the committee as provided for:

Senators Senter, Alexander, Perkins, Terrell of Bowie and Veale.

REASONS FOR VOTING.

We vote "nay" because we think the Governor is clearly within his constitutional rights in sending his message to the Legislature, and because we believe the Governor is right in the fight he has made and is making for the platform demands. The message should be simply printed in the Journal, and we are opposed to the unusual and wholly unnecessary course of sending the message to a committee and to this unprecedented attack upon the Governor.

COFER.
HOLSEY,
BRYAN,
WARD.

HOUSE BILL NO. 55.

Action recurred on House bill No. 55, the question being on the amendment by Senator Hayter, which amendment was adopted.

Senator Terrell of McLennan offered the following amendment, which was adopted:

Amend the bill, page 12, Section 27, line 20, by adding thereto the following: "Provided, that the expense of such examination shall be limited to $50."

Senator Terrell of Bowie offered the following amendment, which was adopted:

Amend the bill by striking out of Sec-

tion 7, page 3, all between the words "association," in line 12, and the second word "the," in line 14, and insert in lieu thereof the following: "And all benefit certificates shall from the date of their issuance be non-contestable on account of any statements or representations made by the applicant in his application for membership or in his medical examination, unless such representations shall be material to the risk assumed, and shall have been made with fraudulent intent, and the burden of proof shall be upon the defendant to affirmatively show such defense."

Senator Hayter offered the following amendment, which was read and adopted:

Amend Section 34 of House bill No. 55 by adding at the end of said section the following: "All certificates of authority for agents or solicitors shall be issued by the Commissioner upon application made therefor by any of the general officers of the association or by any agent whom the properly authorized governing body of the association has by resolution filed with the Commissioner of Insurance and Banking duly empowered to make such application and all such certificates shall be revoked by the Commissioner upon the request of the association, and may be revoked for cause upon like ground and in like manner as the certificates of authority of agents for life insurance companies, under the laws of this State. All such certificates shall be renewed annually and shall expire on the last day of February of each year and a fee of $1.00 shall be paid for the use of the State for the issuance of each such certificate."

Senator Hudspeth offered the following amendment, which was read and adopted:

Amend the bill by adding at the end of Section 29 the following: "Provided, that the total cost of this examination shall never in any one year exceed the sum of $50."

Senator Senter offered the following amendment, which was read and adopted:

Amend House bill No. 55, Section 30, line 4, by inserting after the word "law" the following words: "Or to pay off and satisfy any execution that may lawfully issue on any final judgment against it within sixty days after the officer holding such execution has demanded payment thereof."

Senator Alexander offered the following amendment, which was read and adopted:

Amend bill by striking out all of Section 25 after the word "date," in line 32, page 11, of the printed House bill, and insert a period for the comma.

Senator Senter offered the following amendment, which was read and adopted:

Amend the bill, Section 33, by substituting the words "three hundred" for the words "five hundred" wherever they occur and by substituting for the figures "$500,000" the figures "$300,000."

SENTER,
TERRELL of McLennan.

Senator Alexander offered the following amendment, which was read and adopted:

Amend the bill, Section 10, page 3, of House bill (printed), line 40, the word "provincial," and out of line 1, page 4, the words "township," "park," and by striking out of line 1, same page, the word "or" before the word "school," in same line.

Senator Cofer offered the following amendment, which was read and adopted:

Line 22, page 3, House bill, striking out the commas after the word "association" in line 22, and insert in lieu thereof a period. Then strike out the remainder of the sentence down to and including the word "thereof" in line 24.

Senator Cofer offered the following amendment, which was read and adopted:

Amend Section 8, page 3, by adding at end of section the following: "Provided it shall never be necessary for such association to accompany its contract, policy or certificate with a copy of the application for such policy, contract or certificate, nor with a copy of all questions and answers thereto."

Bill read second time and passed to a third reading.

On motion of Senator Senter, the constitutional rule requiring bills to be read on three several days was suspended and the bill put on its third reading and final passage by the following vote:

Yeas—26.

Adams.	Kellie.
Alexander.	Mayfield.
Bryan.	Meachum.
Cofer.	Murray.
Greer.	Paulus.
Harper.	Peeler.
Hayter.	Perkins.
Holsey.	Real.
Hudspeth.	Senter.
Hume.	Stokes.

Terrell of McLennan.	Ward.
Thomas.	Watson.
Veale.	Willacy.

Absent.

Brachfield.	Terrell of Bowie.
Masterson.	Weinert.
Sturgeon.	

The bill was read third time, and passed by the following vote:

Yeas—26.

Adams.	Paulus.
Alexander.	Peeler.
Bryan.	Perkins.
Cofer.	Real.
Greer.	Senter.
Harper.	Stokes.
Hayter.	Terrell of Bowie.
Holsey.	Terrell of McLennan.
Hudspeth.	Thomas.
Hume.	Veale.
Kellie.	Ward.
Mayfield.	Watson.
Meachum.	Willacy.

Nays—1.

Murray.

Absent.

Brachfield.	Sturgeon.
Masterson.	Weinert.

Senator Senter moved to reconsider the vote by which the bill was passed, and lay that motion on the table.

The motion to table prevailed.

HOUSE BILL NO. 66.

On motion of Senator Watson, the pending order of business (House bill No. 34) was suspended, and the Senate took up, out of its order, House bill No. 66, by the following vote:

Yeas—28.

Adams.	Paulus.
Alexander.	Peeler.
Bryan.	Perkins.
Cofer.	Real.
Greer.	Senter.
Harper.	Stokes.
Hayter.	Terrell of Bowie.
Holsey.	Terrell of McLennan.
Hudspeth.	Thomas.
Hume.	Veale.
Kellie.	Ward.
Mayfield.	Watson.
Meachum.	Weinert.
Murray.	Willacy.

Absent.

Brachfield.	Sturgeon.
Masterson.	

On motion of Senator Watson, the Senate rule requiring committee reports to lie over for one day was suspended, for the purpose of considering this bill (see Appendix for committee report), by the following vote:

Yeas—28.

Adams.	Paulus.
Alexander.	Peeler.
Bryan.	Perkins.
Cofer.	Real.
Greer.	Senter.
Harper.	Stokes.
Hayter.	Terrell of Bowie.
Holsey.	Terrell of McLennan
Hudspeth.	Thomas.
Hume.	Veale.
Kellie.	Ward.
Mayfield.	Watson.
Meachum.	Weinert.
Murray.	Willacy.

Absent.

Brachfield.	Sturgeon.
Masterson.	

The Chair laid before the Senate, on second reading,

House bill No. 66, A bill to be entitled "An Act to amend Chapter 138 of the Acts of the Thirtieth Legislature, approved April 18, 1907, the same being an act to regulate the sale and disposition of spirituous, vinous and malt liquors and medicated bitters capable of producing intoxication, and the places wherein same are sold; imposing an occupation tax, etc., and declaring an emergency."

There being an adverse majority committee report, recommending a favorable substitute bill, and a favorable minority committee report,

Senator Watson moved to adopt the majority committee report, and

Senator Alexander moved, as a substitute, to adopt the minority committee report.

Action recurred on the substitute motion first, which was lost by the following vote:

Yeas—10.

Alexander.	Mayfield.
Bryan.	Perkins.
Cofer.	Stokes.
Hayter.	Terrell of Bowie.
Holsey.	Thomas.

Nays—16.

Adams.	Paulus.
Greer.	Peeler.
Harper.	Real.
Hudspeth.	Senter.
Hume.	Terrell of McLennan.
Kellie.	Ward.
Meachum.	Weinert.
Murray.	Willacy.

Absent.

Sturgeon.

PAIRED.

Senator Veale (present), who would vote "yea," with Senator Masterson (absent), who would vote "nay."

Senator Watson (present), who would vote "nay," with Senator Brachfield (absent), who would vote "yea."

The majority committee report was then adopted.

Senator Alexander offered the following amendment:

Amend the substitute bill by striking out the words "twelve o'clock midnight" and the word "midnight" wherever they occur in the bill and inserting in lieu thereof the words "ten o'clock p. m."

On motion of Senator Watson, the amendment was tabled by the following vote:

Yeas—15.

Adams.	Paulus.
Greer.	Peeler.
Harper.	Real.
Hudspeth.	Senter.
Hume.	Terrell of McLennan.
Kellie.	Weinert.
Meachum.	Willacy.
Murray.	

Nays—11.

Alexander.	Perkins.
Bryan.	Stokes.
Cofer.	Terrell of Bowie.
Hayter.	Thomas.
Holsey.	Ward.
Mayfield.	

Absent.

Sturgeon.

PAIRED.

Senator Veale (present), who would vote "nay," with Senator Masterson (absent), who would vote "yea."

Senator Watson (present), who would vote "yea," with Senator Brachfield (absent), who would vote "nay."

Senator Watson moved the previous question on the engrossment of the bill, which motion, being duly seconded, was so ordered.

Bill read second time, and passed to third reading.

On motion of Senator Watson, the constitutional rule requiring bills to be read on three several days was suspended and the bill put on its third reading and final passage by the following vote:

Yeas—28.

Adams.	Paulus.
Alexander.	Peeler.
Bryan.	Perkins.
Cofer.	Real.
Greer.	Senter.
Harper.	Stokes.
Hayter.	Terrell of Bowie.
Holsey.	Terrell of McLennan.
Hudspeth.	Thomas.
Hume.	Veale.
Kellie.	Ward.
Mayfield.	Watson.
Meachum.	Weinert.
Murray.	Willacy.

Absent.

Brachfield.	Sturgeon.
Masterson.	

The bill was read third time, and passed by the following vote:

Yeas—28.

Adams.	Paulus.
Alexander.	Peeler.
Bryan.	Perkins.
Cofer.	Real.
Greer.	Senter.
Harper.	Stokes.
Hayter.	Terrell of Bowie.
Holsey.	Terrell of McLennan.
Hudspeth.	Thomas.
Hume.	Veale.
Kellie.	Ward.
Mayfield.	Watson.
Meachum.	Weinert.
Murray.	Willacy.

Absent.

Brachfield.	Sturgeon.
Masterson.	

Senator Watson moved to reconsider the vote by which the bill was passed, and lay that motion on the table.

The motion to table prevailed.

RECESS.

On motion of Senator Hume, the Senate recessed until 4 o'clock today.

AFTER RECESS.

The Senate was called to order by Lieutenant Governor Davidson.

EXECUTIVE MESSAGE.

Executive Office,
State of Texas.

Austin, Texas, April 11, 1909.

To the Legislature.

For your information I have the honor to transmit copy of proclamation convening the Thirty-first Legislature in Special Session on Monday, April 12, 1909, at 10 o'clock a. m. The subjects designated for legislation will be found in the proclamation.

T. M. CAMPBELL,
Governor of Texas.

"I, T. M. Campbell, Governor of the State of Texas, by virtue of authority vested in me by the Constitution, do hereby call a special session of the Thirty-first Legislature to convene in the city of Austin, Texas, beginning at 10 o'clock a. m., Monday, April 12, 1909, for the following purposes, towit:

"First—To make appropriations for the support of the State government and State institutions for the two years beginning September 1, 1909, and for other purposes usually covered by appropriation bills, and to observe proper economy in making such appropriations.

"Second—To make appropriations for the payment of deficiencies.

"Third—To enact laws providing for the prompt establishment of an effective system for the guaranty for the deposits of the State banks of Texas, and to provide for all necessary supervision, examination and control of all banking corporations and banks doing business in this State, except national banks.

"Fourth—To consider and act upon such other matters as may hereafter be presented, pursuant to Section 4, Article 3 of the Constitution of the State of Texas.

"In testimony whereof, I have hereunto set my hand and caused the seal of the State of Texas to be affixed at Austin, Texas, this, the 11th day of April, A. D. 1909.

"T. M. CAMPBELL,
"Governor of Texas.

"By the Governor:
"W. B. TOWNSEND,
"Secretary of State."

SECOND HOUSE MESSAGE.

Hall of the House of Representatives,
Austin, Texas, April 11, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has adopted the report of the Free Conference Committee on Senate bill No. 12.

Respectfully,
BOB BARKER,
Chief Clerk, House of Representatives.

THIRD HOUSE MESSAGE.

Hall of the House of Representatives,
Austin, Texas, April 11, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House requests the Senate to appoint a new Free Conference Committee on Senate bill No. 4, a like committee has been appointed on part of the House: Messrs. Luce, Canales, Mason, Tarver and Stratton have been appointed on said committee.

Also concurs in Senate amendments to House bill No. 55.

Respectfully,
BOB BARKER,
Chief Clerk, House of Representatives.

SENATE BILL NO. 12—FREE CONFERENCE COMMITTEE REPORT ON.

Here Senator Watson presented the report of the Free Conference Committee on Senate bill No. 12.

NOTE.—The report is not printed here, by order of the Senate, but is printed, as adopted, in the later proceedings of today.

Pending the reading of the above report, on motion of Senator Watson, the same was dispensed with.

Senator Harper moved that the Senate do not adopt the report, and asked for a new Free Conference Committee.

The motion by Senator Harper was adopted.

(President Pro Tem. Brachfield in the chair.)

The Chair appointed the following as the Free Conference Committee: Senators Meachum, Harper, Watson, Hume and Terrell of Bowie.

FOURTH HOUSE MESSAGE.

Hall of the House of Representatives,
Austin, Texas, April 11, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House rescinds its action upon adopting the Free Conference Committee report on Senate bill No. 12, and grants the request of the Senate for a new Free Conference Committee. The following has been appointed on part of the House: Messrs. Crockett of Mitchell, Aston, Jenkins, Bell and Maxwell.

Respectfully,
BOB BARKER,
Chief Clerk, House of Representatives.

RECESS.

On motion of Senator Hudspeth, the Senate, at 6:15 o'clock, recessed until 8 o'clock tonight.

AFTER RECESS—NIGHT SESSION.

The Senate was called to order by Lieutenant Governor Davidson.

FIFTH HOUSE MESSAGE.

Hall of the House of Representatives,
Austin, Texas, April 11, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House concurs in Senate amendments to House bill No. 66 by the following vote: Yeas, 65; nays, 33.

Respectfully,
BOB BARKER,
Chief Clerk, House of Representatives.

SENATE BILL NO. 4—REQUEST OF HOUSE FOR FREE CONFERENCE COMMITTEE GRANTED.

Senator Watson called up, as a privilege matter, the request of the House for a new Free Conference Committee on Senate bill No. 4 (see House Message No. 1 for request of), and moved that the Senate grant the request of the House for the new Free Conference Committee.

The motion was adopted.

The Chair, upon the request of the House for a new Free Conference Committee on Senate bill No. 4, made the following statement:

The Governor of this State having submitted this morning a communication addressed to the Legislature of Texas in which great reflection is made upon the honor and integrity of as good men and as good Democrats as can be found in the State of Texas or in the Democratic party, and in which he sees fit to make the following statement:

"A law providing for the guaranty of deposits in State banks was demanded and the people mean it. The National platform and the State platform demanded this legislation, because the people demand it and have the right to demand it. The depositors have asked for a bank guaranty law. Not a bond law, with only the right to bring a suit. Such a plan as proposed is, I believe, a sham and fraud that would liquidate every State bank in Texas, notwithstanding it may have the support of good men who are themselves deceived as to the practicability of such a scheme. Those who believe that such a subterfuge can be justified before the people are deceiving themselves."

The Legislature certainly has the right to construe the Democratic platform recommendations as well as has the Chief Executive of this State, and the statement above quoted is an unjust reflection upon the committee heretofore appointed, who, according to their votes heretofore cast, believe that the position of the Senate is not only in compliance with the platform recommendations, but would be a safe and sound policy, not only for State banks, but other banks doing business in Texas, and could not destroy or injure any legitimate business enterprise in this State, but would be a plan in harmony with the best interests of State banks and certainly protect all depositors from loss and be in harmony with the general policy of this State, not to destroy unnecessarily any business institutions legitimately conducting

business within the borders of our Commonwealth.

Therefore the Chair declines to do otherwise than to appoint the committee heretofore appointed to adjust the differences between the House and the Senate, because to do so means to reflect not only upon the honesty of purpose of this committee under the charge above quoted, but also upon their democracy, both of which no man has heretofore seen fit to criticise. The Chair will, therefore, appoint Senators Senter, Watson, Hume, Hudspeth and Sturgeon as the committee.

A. B. DAVIDSON,
President of the Senate.

SENATE BILL NO. 12—FREE CONFERENCE COMMITTEE REPORT ON.

By Senator Meachum:

Committee Room,
Austin, Texas, April 10, 1909.

Hon. A. B. Davidson, President of the Senate, and Hon. John Marshall, Speaker of the House of Representatives.

Sirs: We, your Free Conference Committee, appointed to adjust the differences existing between the two houses on Senate bill No. 12, beg leave to report back the following bill as an adjustment of the differences:

A BILL

To Be Entitled

An Act providing for the appointment of official stenographers for district and county courts and county courts at law by the judges thereof, and prescribing their qualifications and duties, and providing for their compensation, and prescribing the time and method of making up and filing statements of facts and bills of exception in cases tried in such courts, and repealing Chapter 24 of the Acts of the First Called Session of the Thirtieth Legislature of Texas, and all other laws and parts of laws in conflict herewith, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. For the purpose of preserving a record in all cases for the information of the court, jury and parties, the judges of the district courts in all judicial districts of this State composed of only one county, or of only a portion of one county and of all other district courts sitting in the same counties therewith may appoint official shorthand reporters for such courts, who shall be well skilled in their profession, who shall be sworn officers of the courts, and shall hold their office during the pleasure of the court. In all other judicial districts the district judges thereof may appoint official shorthand reporters if in their judgment such appointment is necessary, and in the event of such appointment the terms of this act shall apply.

Sec. 2. Before any person is appointed an official shorthand reporter under the provisions of this act he shall be examined as to his competency by a committee to be composed of at least three members of the bar practicing in said court, such committee to be appointed by the judge thereof. The test of competency of any applicant for the position of official shorthand reporter shall be as follows: The applicant shall write in the presence of such committee at the rate of at least 130 words per minute for five consecutive minutes from questions and answers not previously written by him, and in computing the number of words written the words "Questions" and "Answers" appearing in the official shorthand reporter's transcript shall not be counted, and shall transcribe the same with accuracy. If the applicant passes this test satisfactorily, a majority of the committee shall furnish him with a certificate of that fact, which shall be filed among the records of the court, and shall be recorded by the clerk of the court in the minutes thereof. Upon the occasion of subsequent appointments the presentation of a certified transcript from the clerk of the court of the certificate above mentioned shall be taken as prima facie evidence of the applicant's competency; provided, however, that if the applicant shall have been an official stenographer of any district court of this State for not less than two years prior to the filing of his application for said appointment, then such examination by said committee, as herein provided, shall not be necessary.

Sec. 3. Before any person shall assume the duties of official shorthand reporter under the provisions of this act, he shall, in addition to the oath required of officers by the Constitution, subscribe to an oath, to be administered to him by the clerk of any district court, to the effect that he will well and truly

and in an impartial manner keep a correct record of all evidence offered in any case which may be reported by him, together with the objections and exceptions thereto which may be interposed by the parties to such suit, and the rulings and remarks of the court in passing on the admissibility of such testimony.

Sec. 4. It shall be the duty of the official shorthand reporter to attend all sessions of the court; to take full shorthand notes of all oral testimony offered in every case tried in said court, together with all objections to the admissibility of testimony, the rulings and remarks of the court thereon, and all exceptions to such rulings. If during the trial of any cause, either party thereto or his attorney, shall desire to have the evidence already adduced upon the trial, or any part thereof, read over to him, he shall request such official shorthand reporter to read the same from his notes, and it shall be the duty of such reporter to comply with such request, and in case he shall fail or refuse so to do, he shall be removed from his official position as court reporter, in case it shall be found by a committee of three disinterested practicing attorneys of the county wherein such failure or refusal occurred, to be appointed by the court, that such failure or refusal was intentional and without justification; to preserve all shorthand notes taken in said court for future use or reference for at least one year, and to furnish to any person a transcript in question-and-answer form of all such evidence or other proceedings, or any portion thereof, upon the payment to him of the compensation hereinafter provided.

Sec. 5. In case an appeal is taken from the judgment rendered in any case, the official shorthand reporter shall transcribe the testimony and other proceeding recorded by him in said case in the form of questions and answers, provided the same is requested by either party to the suit, certifying that such transcript is true and correct, and shall file the same in the office of the clerk of the court within such reasonable time as may be fixed by written order of the court, said transcript shall be made in duplicate, to be paid for by the party ordering the same, on delivery, and the amount so paid shall be taxed as costs.

Sec. 6. Upon the filing in the office of the clerk of the court by the official shorthand reporter of his transcript as provided in Section 5 of this act, the party appealing shall prepare or cause to be prepared a statement of facts in duplicate, which shall consist of the evidence adduced upon the trial, both oral and by deposition, stated in a succinct manner and without unnecessary repetition, together with copies of such documents, sketches, maps and other matters as were used in evidence. It shall not be necessary to copy said statement of facts in the transcript of the clerk on appeal, but the same shall, when agreed to by the parties and approved by the judge, or in the event of a failure of the parties to agree and a statement of facts is prepared and certified by the judge trying the case, be filed in duplicate with the clerk of the court and the original thereof shall be sent up as a part of the record in the cause on appeal. Provided, however, that the official shorthand reporter shall, when requested by the party appealing, prepare under the direction of the party appealing a statement of facts in narrative form, in duplicate, and deliver same to the party appealing, for which said statement of facts he shall be paid the sum of ten cents per folio of 100 words for the original copy and no charge shall be made for the duplicate copy; provided such amount shall not be taxed as costs in the case, if a transcript of the testimony in the form of questions and answers has been theretofore filed with the clerk and taxed as costs.

Sec. 7. When an appeal is taken from the judgment rendered in any cause in any district court or county court, the parties to the suit shall be entitled to and they are hereby granted thirty days after the day of adjournment of court in which to prepare and file a statement of facts and bills of exception; and upon good cause shown the judge trying the cause may extend the time in which to file a statement of facts and bills of exception. Provided, that the court trying such cause shall have power in term time or in vacation, upon the application of either party, for good cause, to extend the several times as hereinbefore provided for the preparation and filing of the statement of facts and bills of exception, but the same shall not be so extended so as to delay the filing of the statement of facts, together with the transcript of the record, in the appellate court within the time prescribed by law, and when the parties fail to agree upon a statement of facts, and that duty devolves upon

the court, the court shall have such time in which to do so, after the expiration of the thirty days as hereinbefore provided, as the court may deem necessary, but the court, in such case, shall not postpone the preparation and filing of such statement of facts and bills of exceptions so as to delay the filing of same, together with a transcript of the record in the appellate court within the time prescribed by law. Provided, if the term of said court may by law continue more than eight weeks, said statement of facts and bills of exception shall be filed within thirty days after final judgment shall be rendered unless the court shall by order entered of record in said cause extend the time for filing such statement and bills of exception.

Sec. 8. The official shorthand reporter shall receive a per diem compensation of $5.00 for each and every day he shall be in the actual discharge of his duties in reporting cases in the court for which he is appointed, or in performing service under the actual direction of the judge of such court, upon work by such judge deemed necessary. Such compensation shall be paid monthly by the commissioners court of the county in which said court sits, out of the general fund of the county, upon the certificate of the district judge. He shall also receive from persons ordering transcripts of his notes the sum of ten cents per folio of one hundred words.

If the said official shorthand reporter shall, within the judgment of the court, have rendered more services to the court in the discharge of his duties than the terms of this bill shall provide for, then, and in that event the district judge shall certify to the commissioners court of each county in his district, six months after the taking effect of this act, and at the end of every six months thereafter, whether or not in his judgment the compensation is commensurate with the services performed, and if not, that the certificate of said judge shall state the amount that in his judgment the said official shorthand reporter should receive from each of the counties in the district, and same shall be a claim against the county, to be allowed, or rejected, by the commissioners court as other claims against the counties. Provided, that when any criminal case is appealed and the defendant is not able to pay for a statement of facts, or to give security therefor, he may make affidavit of such facts, and upon the making and filing of such affidavit, the court shall order the stenographer to make such statement of facts in duplicate and deliver them as herein provided in civil cases, but the stenographer shall receive no pay for same, provided that should any such affidavit so made by such defendant be false he shall be prosecuted and punished as is now provided by law for making false affidavits.

In any civil case where the appellant or plaintiff in error has made the proof required to appeal his case without bond, such appellant or plaintiff in error may make affidavit of such facts and upon the making and filing of such affidavit, the court shall order the stenographer to make such statement of facts in duplicate and deliver them as herein provided in other cases, but the stenographer shall receive no pay for same, provided that should any such affidavit so made by such appellant or plaintiff in error be false he shall be prosecuted and punished as is now provided by law for making false affidavits.

Sec. 9. At the request of any person it shall be the duty of the official shorthand reporter to make a transcript in typewriting of all the evidence and other proceedings, or any portion thereof, either in question and answer form or in narrative form, in any case, which transcript shall be paid for at the rate of ten cents per folio of 100 words by and be the property of the person ordering the same.

Sec. 10. Hereafter the clerks of all courts having official shorthand reporters as provided for in this act shall tax as costs in each civil case now or hereafter pending in such courts, except suits for the collection of delinquent taxes, and except suits which are not contested, a stenographer's fee of three dollars, which shall be paid as other costs in the case, and which shall be paid by said clerk, when collected, into the general fund of the county in which said court sits, except cases in which the district court has no original jurisdiction.

Sec. 11. The official shorthand reporter may, with the consent of the court, appoint one or more deputies when necessary to assist him in the discharge of his duties, provided, however, that before any such deputy shall enter upon the discharge of his duties as official shorthand reporter he shall subscribe to the same oath hereinbefore provided for for the official shorthand reporter and shall also be required to stand such ex-

amination as to his proficiency as may be required by the court.

Sec. 12. It shall be the duty of each official shorthand reporter to file with the district clerk of each county of his district annually upon the first Monday in January an itemized statement, verified by affidavit, showing all sums collected by him as per diem or other compensation during the preceding year, giving the name of the person paying each sum and the date of payment of same.

Sec. 13. Whenever either party to a civil cause pending in the county court or county court at law shall apply therefor, the judge of the court shall appoint a competent stenographer to report the oral testimony given in such cause. Such stenographer shall take the oath herein prescribed, and shall receive such compensation as the court may fix, to be not less than five dollars per day, which shall be taxed and collected as costs. The provisions of this act with respect to the preparation of the statement of facts, the time to be allowed therefor, and for the presentation to the opposite party, and the approving and filing thereof by the court shall apply to all statements of facts in civil causes tried in the county court and county court at law; and all other provisions of law governing statement of facts and bills of exception to be filed in district courts and the use of the same on appeal, shall apply to civil causes tried in the county courts and county courts at law.

Sec. 14. That Chapter 24, page 509, Acts of the First Called Session of the Thirtieth Legislature of the State of Texas, providing for the appointment of court stenographers, prescribing their duties and regulating their charges, and all other laws or parts of laws in conflict with this act, be and the same are hereby expressly repealed; provided, however, that nothing in this act shall be so construed as to prevent parties from preparing statements of facts on appeal independent of the transcript of the notes of the official shorthand reporter. Provided, the provisions of this act as to preparing and filing statement of facts and bills of exception shall apply only to cases hereafter tried; as to cases heretofore tried the law now in force shall govern.

Sec. 15. In the trial of all criminal cases in the district court in which the defendant is charged with a felony, the official shorthand reporter shall keep an accurate stenographic record of all the proceedings of such trial in like manner as is provided for in civil cases, and should an appeal be prosecuted in any judgment of conviction whenever the State and defendant can not agree as to the testimony of any witness, then and in such event so much of the transcript of the official shorthand reporter's report with reference to such disputed fact or facts shall be inserted in the statement of facts as is necessary to show what witnesses testified to in regard to the same, and constitute a part of the statement of facts, and the same rule shall apply in the preparation of bills of exceptions; provided, that such stenographer's report, when carried into the statement of facts or bills of exceptions, shall be condensed so as not to contain the questions and answers, except where, in the opinion of the judge such questions and answers may be necessary in order to elucidate the fact or question involved; provided, that in all cases where the court is required to and does appoint an attorney to represent the defendant in a criminal action, that the official shorthand reporter shall be required to furnish the attorney for the said defendant, if convicted, and where an appeal is prosecuted, with a transcript of his notes, for which said service he shall be paid, by the State of Texas, upon the certificate of the district judge, one-half of the rate provided for herein in civil cases.

Sec. 16. The fact that the present law relating to the appointment of official stenographers does not provide a proper standard of competency and does not provide a sufficient length of time in which to prepare and file statements of facts and bills of exceptions in cases on appeal, thereby causing confusion and dissatisfaction, creates an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended and that this act take effect from and after its passage, and it is so enacted.

Respectfully submitted,

WATSON,
HARPER,
HUME,
TERRELL of Bowie,
MEACHUM,

On part of the Senate.

JENKINS,
MAXWELL,
BELL,
CROCKETT of Mitchell,
ASTON,

On part of the House.

Pending the reading of the report, on

motion of Senator Meachum, the same was dispensed with.

Senator Harper moved that the Free Conference Committee report on this bill, which was submitted to the Senate earlier in the day, and which the Senate refused to adopt, but expunged from the Journal.

The motion was adopted.

The report was adopted by the following vote:

Yeas—25.

Adams.	Paulus.
Alexander.	Peeler.
Bryan.	Perkins.
Greer.	Real.
Harper.	Senter.
Hayter.	Terrell of Bowie.
Hudspeth.	Terrell of McLennan.
Hume.	Thomas.
Kellie.	Veale.
Masterson.	Ward.
Mayfield.	Watson.
Meachum.	Weinert.
Murray.	

Nays—1.

Holsey.

Absent.

Brachfield.	Sturgeon.
Cofer.	Willacy.
Stokes.	

REPORT OF SPECIAL COMMITTEE.

(Majority report.)

By Senator Senter:

Austin, Texas, April 11, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: We, a majority of your special committee, to whom was referred the communication of the Governor of even date herewith, have had the same under consideration, and beg leave to submit the following report:

Upon inspection of the communication we find that the Governor states in said communication that "I have interpreted the Democratic platform without the aid of the liquor lobby, the railroad lobby, or of the Commercial Secretaries' lobby, which last mentioned instrument is the nucleus around which is gathered every selfish interest now represented at the capital. Its headquarters established in Austin upon the assembling of this Legislature, with the evident purpose of directing legislation, is supported from a source unknown to you or to me. We can only surmise from the character of its work." And the motto of said Commercial Secretaries is claimed to be "Fewer Laws and Better Laws" or "pass the appropriation bill and come home." And we further find the following reference to said lobby, to-wit:

"Probably the boldest, the most arrogant and the most formidable lobby, made up by the combined selfish interests, that ever assembled at the capital, gathered here upon the assembling of the Thirty-first Legislature to pester you and to hinder and defeat the popular will. Just what they have done, I do not know; but they are still hovering about this capital, I do know."

And from a full inspection of said communication it is found that the Governor makes no charge that any member of this Legislature has been unduly influenced by any other motive than what such members honestly believed to be right, but that said communication is an arraignment of those organizations and interests which are opposed to his policies, and of the Legislature generally for not having passed the Democratic platform demands, or what the Governor construed to be such demands. We do not believe that the Governor charges nor do we think there is any reason for us to believe that any member of this Senate has been improperly influenced.

Therefore, we recommend that said communication of the Governor comes within his constitutional right and does not reflect on any member of the Legislature, and should be printed in the Journal, and that no further action be had thereon.

Respectfully submitted,
TERRELL of Bowie,
ALEXANDER,
VEALE.

(Minority Report.)

Austin, Texas, April 11, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: We, a minority of your committee, to which was referred the message of the Governor bearing date of April 10th, beg leave to submit the following report:

Under the provisions of Article 4, Section 9, of the Constitution it is provided that: "The Governor shall, at the commencement of each session of the Legislature, and at the close of his term of office, give to the Legislature information by message of the condition of the State; and he shall recom-

mend to the Legislature such measures as he may deem expedient."

Article 3, Section 40, of the Constitution provides: "When the Legislature shall be convened in special session there shall be no legislation upon subjects other than those designated in the proclamation of the Governor calling such session or presented to them by the Governor."

A careful examination of the message shows that it does not relate in any matter which would be presentable to the Legislature under the foregoing provisions of the Constitution. We are unable to find any provision in the Constitution for this discussion of measures which have lately been under consideration by the Legislature, and untimely and undignified upbraiding of its membership.

We think it unnecessary for the Legislature to take cognizance of the sinister insinuations contained in this document. An investigation was lately conducted under authority of the Senate of insinuations similar to those contained in this message, and if the Executive knew of any testimony bearing upon these matters which was not brought to the attention of that committee, he should then have submitted such facts to the committee. The Governor is charged by the Constitution with the duty of causing the laws to be faithfully executed. No such duty is vested in the Legislature. If the Governor is aware of any violation of the laws, it would be more appropriate, we suggest, to bring such violations to the attention of the executive officers under his immediate supervision and control than to present such matters to the Legislature.

The complaint of the Executive that the Senate has not always agreed with his views and with his interpretation of democratic platform is well based. It is contemplated by the Constitution that such differences may arise. We can discover no trace in that instrument of any lodgment of legislative power in the Governor other than the right to make recommendations to the Legislature and to exercise the veto power. It is unnecessary, at this time, to discuss the details of proposed legislation concerning which the Executive and the Senate have disagreed. Conscious of the rectitude of our own purposes and with a firm belief in the integrity of the Senate as a whole, we merely submit that the politician of high or low degree who resorts to base and unfounded insinuations to escape the consequences of his own blunders or to revenge himself upon those who have not bowed to his command, is not likely to be accepted by the people of Texas as a just and a safe advisor. They are competent to pass judgment upon all issues, and they will not be deflected from a full investigation of every question upon its merits by tricks and artifices which have become too common in this State.

The experience of many years and many peoples has confirmed the wisdom of our system which separates the government into three co-ordinate branches, and guards with jealous care against encroachment by either upon the prerogatives of the other. Wherever popular government under whatever name has perished from the earth, its decline began with the usurpation of legislative power by the Executive.

SENTER,
PERKINS.

Senator Senter moved to adopt the minority report, and Senator Terrell of Bowie moved, as a substitute, to adopt the majority report.

Action recurred on the substitute motion first, which was lost by the following vote:

Yeas—12.

Alexander.	Peeler.
Bryan.	Stokes.
Cofer.	Terrell of Bowie.
Hayter.	Thomas.
Holsey.	Veale.
Mayfield.	Ward.

Nays—12.

Adams.	Murray.
Greer.	Paulus.
Hudspeth.	Perkins.
Hume.	Senter.
Kellie.	Watson.
Masterson.	Weinert.

Present—Not Voting.

Real.

Absent.

Harper.	Terrell of McLennan.
Sturgeon.	Willacy.

The vote being a tie, Lieutenant Governor Davidson, presiding, voted "nay" and declared the motion lost.

PAIRED.

Senator Brachfield (present), who would vote "yea," with Senator Meachum (absent), who would vote "nay."

Action then recurred on the motion to adopt the minority report, which motion was adopted by the following vote:

Yeas—13.

Adams.	Paulus.
Greer.	Perkins.
Hudspeth.	Real.
Hume.	Senter.
Kellie.	Watson.
Masterson.	Weinert.
Murray.	

Nays—13.

Alexander.	Peeler.
Bryan.	Stokes.
Cofer.	Terrell of Bowie.
Harper.	Thomas.
Hayter.	Veale.
Holsey.	Ward.
Mayfield.	

Absent.

Sturgeon.	Willacy.
Terrell of McLennan.	

PAIRED.

Senator Brachfield (present), who would vote "nay," with Senator Meachum (absent), who would vote "yea."

The vote being a tie, Lieutenant Governor Davidson, presiding, voted "yea" and declared the motion adopted.

SIXTH HOUSE MESSAGE.

Hall of the House of Representatives,
Austin, Texas, April 11, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has adopted the Free Conference Committee report on Senate bill No. 12.

Respectfully,
BOB BARKER,
Chief Clerk, House of Representatives.

PRESIDENT PRO TEM.—ELECTION OF.

In accordance with the provisions of the Constitution, the Chair announced that the election of a President Pro Tem. of the Senate was in order, whereupon Senator Paulus placed in nomination for that place, Senator E. I. Kellie of Jasper county.

The nomination was seconded by Senators Veale, Adams and Hume.

There being no other nominations, the Chair declared nominations closed.

Senators Hume, Adams and Paulus were appointed as tellers.

Senator Kellie received 25 votes, all the votes cast, and was declared duly and constitutionally elected President Pro Tem. of the Senate.

The Chair requested Senators Weinert, Veale and Murray to escort Senator Kellie to the President's stand.

Senator Kellie, on receiving the gavel, thanked the Senate for the honor conferred on him.

The Chair then administered the constitutional oath of office to President Pro Tem. Kellie.

HOUSE NOTIFICATION COMMITTEE.

A committee of three members of the House of Representatives here appeared at the bar of the Senate and notified the Senate that the House of Representatives had completed its duties and was ready to adjourn.

(President Pro Tem. Kellie in the chair.)

SENATE BILL NO. 4—FREE CONFERENCE COMMITTEE REPORT.

Committee Room,
Austin, Texas, April 11, 1909.

Hon. A. B. Davidson, President of the Senate, and Hon. John Marshall, Speaker of the House of Representatives.

Sirs: We, your Free Conference Committee on Senate bill No. 4, beg leave to report that we have had the same under consideration, and that we have been unable to agree upon recommendations for the adjustment of the differences between the House and Senate relating to said bill.

SENTER,
HUME,
WATSON,
HUDSPETH,
STURGEON,
On the part of the Senate.

CURETON,
RAYBURN,
MOBLEY,
JENNINGS,
On the part of the House.

Senator Terrell of Bowie moved that the Senate concur in the House amendments to Senate bill No. 4.

Senator Watson made the point of order that the report just read was the report of the first Free Conference Committee appointed, but that the second committee had the bill in their hands.

The Chair sustained the point of order.

COMMITTEE TO NOTIFY THE HOUSE OF ADJOURNMENT.

Senator Hudspeth here moved that the Chair appoint a committee to notify the House of Representatives that the Senate had completed its labors and was ready to adjourn. The motion was adopted and the Chair appointed Senators Hudspeth, Hume and Perkins.

Pending a short delay, the above committee made their report and was discharged.

BILLS SIGNED.

The Chair (Lieutenant Governor Davidson) gave notice of signing, and did sign in the presence of the Senate, after their captions had been read, the following bills:

House bill No. 55, "An Act defining and regulating fraternal beneficiary associations and repealing Chapter 115 of the General Laws of the Twenty-sixth Legislature of the State of Texas, as amended by Chapter 86 of the General Laws of the Twenty-seventh Legislature, and by Chapter 113 of the General Laws of the Twenty-eighth Legislature, and by Chapter 106 of the General Laws of the Twenty-ninth Legislature."

House bill No. 66, "An Act to regulate the sale and disposition of spirituous, vinous and malt liquors and medicated bitters capable of producing intoxication, and the places wherein same are sold; imposing an occupation tax upon persons, firms, corporations, and associations of persons selling spirituous, vinous and malt liquors or medicated bitters capable of producing intoxication; requiring retail liquor dealers and other persons to secure license to sell such liquors; and defining retail liquor dealers and regulating the business thereof; requiring retail malt dealers and other persons to secure license to sell malt liquor exclusively, capable of producing intoxication; and defining retail malt dealers and regulating the business thereof," etc.

(By President Pro Tem. Brachfield:)

Senate bill No. 26, "An Act to amend Sections 6 and 11 of Chapter 94 of the Acts of the Twenty-eighth Legislature, page 119, entitled 'An Act to define, prohibit and declare illegal trusts, monopolies and conspiracies in restraint of trade, and to prescribe penalties for forming or being connected with such trusts, monopolies and conspiracies, and to provide for the suppression of the same, and to promote free competition in the State of Texas, and to repeal all laws in conflict therewith,' providing venue; providing punishment for violations thereof; fixing compensation, and declaring an emergency."

Senate bill No. 12, "An Act providing for the appointment of official shorthand reporters for districts by judges thereof to report cases; providing for the time and method of making and filing typewritten transcripts of such reports; providing for the time and method of making and filing statements of facts and bills of exceptions on appeals; providing for the qualifications, duties and compensations of such official shorthand reporters; repealing Chapter 24, page 509, Acts of the First Called Session of the Thirtieth Legislature of the State of Texas, and all other laws or parts of laws in conflict with this act, and declaring an emergency."

SINE DIE ADJOURNMENT.

There being no further business before the Senate, and the notification committees having made their report, the Chair (President Pro Tem. Kellie) here announced the hour of 12 o'clock p. m., the time set for sine die adjournment, had arrived, and, in accordance with the constitutional provisions governing special sessions, pronounced the First Called Session of the Thirty-first Legislature adjourned without day.

APPENDIX.

COMMITTEE REPORTS.

Committee Room,
Austin, Texas, April 11, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Judiciary Committee No. 2, to whom was referred

House bill No. 66, A bill to be entitled "An Act to amend Chapter 138 of the

Acts of the Thirtieth Legislature, approved April 18, 1907, the same being an 'An Act to regulate the sale and disposition of spirituous, vinous and malt liquors and medicated bitters capable of producing intoxication, and the places wherein same are sold; imposing an occupation tax upon persons, firms, corporations and association of persons, selling spirituous, vinous or malt liquors or medicated bitters capable of producing intoxication; requiring retail liquor dealers and other persons to secure license to sell such liquors; and defining retail liquor dealers and regulating the business thereof; requiring retail malt dealers and other persons to secure license to sell malt liquors exclusively, capable of producing intoxication; and defining retail malt dealers and regulating the business thereof; requiring retail malt dealers and other persons to secure license to sell malt liquors exclusively, capable of producing intoxication; and defining retail malt dealers and regulating the business thereof; exempting wine growers who sell wine of their own production from the provisions of this act, providing same is not sold to be drunk on the premises where sold, and otherwise regulating of such wine growers; regulating the transfer of license of retail liquor dealers and retail malt dealers; prescribing the conditions of the bonds of such retail dealers and the conditions upon which licenses to such dealers and other persons may be issued; providing for the refund of any unearned portion of any license; requiring the county clerk to report all licenses granted to the Comptroller of Public Accounts; providing for the revocation under certain conditions of licenses issued; defining intoxicating liquors, and providing penalties for the violation of the provisions of this act, and declaring an emergency,' and adding Sections 9a, 9b, 9c, 9d, 9e, 9f, 9g, 9h, 9i, 9j, 10a, 24b and 35a, prescribing the method and procedure of which liquor licenses may be obtained, transferred and forfeited, and prescribing the manner for the ascertainment of the facts upon which forfeiture is based and prescribing the duties of the county judge, Comptroller of Public Accounts and the county attorney and other proper officers in regard thereto, and repealing all laws or parts of laws in conflict herewith, requiring licenses to be issued under this act, and prescribing the continuation in force of licenses issued under prior laws for sixty days after this act takes effect in order to give time for securing licenses under this act, and providing that credit be allowed upon licenses to be obtained under this act in an amount equal to the unearned portion or part of any existing license, and declaring an emergency,"

Have had the same under consideration, and recommend that it do not pass, but that the following committee substitute do pass in lieu thereof:

"An Act to amend Chapter 138 of the Acts of the Thirtieth Legislature, approved April 18, 1907, the same being an 'An Act to regulate the sale and disposition of spirituous, vinous and malt liquors and medicated bitters capable of producing intoxication, and the places wherein same are sold; imposing an occupation tax upon persons, firms, corporations and association of persons, selling spirituous, vinous or malt liquors or medicated bitters capable of producing intoxication; requiring retail liquor dealers and other persons to secure license to sell such liquors; and defining retail liquor dealers and regulating the business thereof; requiring retail malt dealers and other persons to secure license to sell malt liquors exclusively, capable of producing intoxication; and defining retail malt dealers and regulating the business thereof; exempting wine growers who sell wine of their own production from the provisions of this act, providing same is not sold to be drunk on the premises where sold, and otherwise regulating of such wine growers; regulating the transfer of license of retail liquor dealers and retail malt dealers; prescribing the conditions of the bonds of such retail dealers and the conditions upon which licenses to such dealers and other persons may be issued; providing for the refund of any unearned portion of any license; requiring the county clerk to report all licenses granted to the Comptroller of Public Accounts; providing for the revocation under certain conditions of licenses issued; defining intoxicating liquors, and providing penalties for the violation of the provisions of this act, and declaring an emergency,' and adding Sections 9a, 9b, 9c, 9d, 9e, 9f, 9g, 9h, 9i, 9j, 10a and 35a, prescribing the method and procedure by which liquor licenses may be obtained, transferred and forfeited, and prescribing the manner for the ascertainment of the facts upon which forfeiture is based, and prescribing the duties of the county judge, Comptroller of Public Accounts and the county attorney and other proper officers in regard thereto, and repealing all laws or parts of laws in conflict herewith, requiring licenses to be issued under this

act, and prescribing the continuation in force of licenses issued under prior laws for sixty days after this act takes effect in order to give time for securing licenses under this act and providing that credit be allowed upon licenses to be obtained under this act in an amount equal to the unearned portion or part of any existing license, and declaring an emergency,"

And be not printed.

HARPER, Chairman.

Amend House bill No. 66, by striking out all after the words "A bill to be entitled," and insert in lieu thereof the following:

An Act to amend Chapter 138 of the Acts of the Thirtieth Legislature, approved April 18, 1907, the same being "An Act to regulate the sale and disposition of spirituous, vinous and malt liquors and medicated bitters capable of producing intoxication, and the places wherein same are sold; imposing and occupation tax upon persons, firms, corporations and association of persons, selling spirituous, vinous or malt liquors or medicated bitters capable of producing intoxication; requiring retail liquor dealers and other persons to secure license to sell such liquors; and defining retail liquor dealers and regulating the business thereof; requiring retail malt dealers and other persons to secure license to sell malt liquors exclusively, capable of producing intoxication; and defining retail malt dealers and regulating the business thereof; exempting wine growers who sell wine of their own production from the provisions of this act, providing same is not sold to be drunk on the premises where sold, and otherwise regulating of such wine growers; regulating the transfer of license of retail liquor dealers and retail malt dealers; prescribing the conditions of the bonds of such retail dealers and the conditions upon which licenses to such dealers and other persons may be issued; providing for the refund of any unearned portion of any license; requiring the county clerk to report all licenses granted to the Comptroller of Public Accounts; providing for the revocation under certain conditions of licenses issued; defining intoxicating liquors, and providing penalties for the violation of the provisions of this act, and declaring an emergency," and adding Sections 9a, 9b, 9c, 9d, 9e, 9f, 9g, 9h, 9i, 9j, 10a and 35a, prescribing the method and procedure by which liquor licenses may be obtained, transferred and forfeited, and prescribing the manner for the ascertainment of the facts upon which forfeiture is based and prescribing the duty of the county judge, Comptroller of Public Accounts and the county attorney and other proper officers in regard thereto, and repealing all laws or parts of laws in conflict herewith, requiring licenses to be issued under this act and prescribing the continuation in force of licenses issued under prior laws for sixty days after this act takes effect in order to give time for securing licenses under this act and providing that credit be allowed upon licenses to be obtained under this act in an amount equal to the unearned portion or part of any existing license, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That Chapter 138 of the Acts of the Thirtieth Legislature, entitled "An Act to regulate the sale and disposition of spirituous, vinous and malt liquors and medicated bitters capable of producing intoxication, and the places wherein same are sold; imposing an occupation tax upon persons, firms, corporations and associations of persons, selling spirituous, vinous or malt liquors or medicated bitters capable of producing intoxication; requiring retail liquor dealers and other persons to secure license to sell malt liquors exclusively capable of producing intoxication; and defining retail malt dealers and regulating the business thereof; exempting wine growers who sell wine of their own production from the provisions of this act, provided same is not sold to be drunk on the premises where sold, and otherwise regulating the business of such wine growers; regulating the transfer of licenses of retail liquor dealers and retail malt dealers; prescribing the conditions of the bonds of such retail dealers and the conditions upon which licenses to such dealers and other persons may be issued; providing for the refund of any unearned portion of any license upon the death of the licensee; requiring the county clerk to report all licenses granted to the Comptroller of Public Accounts; providing for the revocation under certain conditions of licenses issued; defining intoxicating liquors, and pro-

viding penalties for the violation of the provisions of this act, and declaring an emergency," be so amended as to hereafter read as follows:

Section 1. Hereafter there shall be collected from every person, firm, or association of persons selling spirituous, vinous or malt liquors or medicated bitters capable of producing intoxication, in this State, not located in any county or subdivision of a county, justice precinct, city or town where local option is in force under the laws of Texas, an annual tax of three hundred and seventy-five ($375) dollars on each separate establishment as follows: For selling such liquors or medicated bitters in quantities of one gallon or less than one gallon, three hundred and seventy-five ($375) dollars; for selling such liquors or medicated bitters in quantities of one gallon or more than one gallon, three hundred and seventy-five ($375) dollars; providing that in selling one gallon the same may be made up of different liquors in unbroken packages aggregating not less than one gallon; for selling malt liquors exclusively, $62.50; provided, further, that nothing in this article shall be so construed as to exempt druggists who sell spirituous, vinous or malt liquors or medicated bitters capable of producing intoxication, on the prescription of a physician or otherwise, from the payment of the tax herein imposed; provided, further, that this article shall not apply to the sale by druggists of tinctures and drug compounds, in the preparation of which such liquors or medicated bitters are used and sold on the prescription of a physician or otherwise, and which tinctures and compounds are not intoxicating beverages prepared in the evasion of the provisions of this chapter nor the local option law. The commissioners court of the several counties in this State shall have the power to levy and collect from every person or association of persons selling spirituous, vinous or malt liquors or medicated bitters, a tax equal to one-half of the State tax herein levied; and where any such sale is made in any incorporated city or town, such city or town shall have the power to levy and collect a tax upon such sale equal to that levied by the commissioners court of the county in which such city or town is situated; provided that where any special charter gives the right to any city to refuse a license for the sale of intoxicating liquors, no license issued on behalf of the State or county shall become operative therein until a license therefor has been issued by such city.

Sec. 2. A retail liquor dealer is a person or firm permitted by law, being licensed under the provisions of this act, to sell spirituous, vinous and malt liquors, and medicated bitters capable of producing intoxication, in quantities of one gallon or less which may be drunk on the premises? Any person who sells intoxicating liquors in quantities less than one gallon shall be governed by the provisions of this law and be required to take out license hereunder.

Sec. 3. A retail malt dealer is a person or firm permitted by law, being licensed under the provisions of this act, to sell malt liquors capable of producing intoxication exclusively in quantities of one gallon or less which may be drunk on the premises.

Sec. 4. No person shall directly or indirectly sell spirituous or vinous liquors capable of producing intoxication in quantities of one gallon or less without taking out a license as a retail liquor dealer. Any person who shall violate the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than $500, nor more than $1000, and by imprisonment in the county jail for a term not to exceed six months.

Sec. 5. No person shall sell directly or indirectly, malt liquor capable of producing intoxication in quantities of one gallon or less without taking out a license as a retail malt dealer; provided that this section shall not apply to a retail liquor dealer, and that a retail liquor dealer's license shall be construed to embrace a retail malt dealer's license. Any person who shall violate the provisions of this section shall, upon conviction thereof, be punished by a fine of not less than $250, nor more than $500, and by imprisonment in the county jail for a term not exceeding ninety days.

Sec. 6. This act shall not be so construed as to deny the right of wine growers to sell wine of their own production in any quantity without license; provided that such wine grower shall not permit nor suffer any wine so sold by him to be drunk on his premises; and provided, further, that this section shall not be so construed as to give any wine grower the right to sell any wine to any minor without the permission of the parent, master or guardian of such

minor first had and obtained, or any habitual drunkard, after being notified by any relative of such drunkard not to make such sale, gift or disposition. Every wine grower who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor and, on conviction thereof, shall be punished by a fine of not less than $25, nor more than $100, or by imprisonment in the county jail during a term not to exceed three months, or by both such fine and imprisonment.

Sec. 7. No retail liquor dealer nor retail malt dealer shall carry on said business at more than one place at the same time under the same license, nor shall any such license be voluntarily assigned more than once, but before the assignee of such license can engage in business thereunder he shall comply with the provisions of this act as required of the original licensee, and provided further, that the sale of such license, whether in the name of the original licensee or assignee, may be made under execution or mortgage, and the purchaser of such license at such sale shall have the right to surrender such license to the State or county which issued the tax receipt which is the basis therefor and shall receive therefor the pro rata unearned portion of such license; provided further, that should said original licensee or his assignee desire to change the place designated in said license he may do so by applying to the county judge as in case of original application for license as provided in Section 9 of this act, but it shall not be necessary to furnish another certificate from the Comptroller of Public Accounts.

Sec. 8. Any person or firm having a license as a retail liquor dealer or a retail malt dealer who shall violate any of the provisions of this act, or the provisions or conditions of the liquor dealer's bond required by this act to be given by such person or firm, shall forfeit his or their license as a retail liquor dealer or retail malt dealer, as the case may be; and if affidavit is filed by any property taxpaying citizen in the office of the clerk of the county court that such person or firm, having either of such license has been guilty of violating any of the provisions of this act, or the provisions or conditions of said liquor dealer's bond, it shall be the duty of the judge of said county court to immediately cause to be issued a notice in writing to such person or firm so having such license, notifying them of the filing of such affidavit, and it shall also be the duty of the judge of said county court to set a time for the hearing of said affidavit and evidence upon the same at a time not less than six days, nor more than ten days, after the date of filing of said affidavit, and upon the hearing of said affidavit and the proof for and against the same, if it shall be determined that said person or firm so having such license has violated any of the provisions of this act, or any of the provisions or conditions of their said liquor dealers' bond, then it shall be the duty of the judge of said court to enter an order on the minutes of said court declaring the said license forfeited and said license shall be cancelled from said date. In case it is determined that the said person or firm so having such license has violated any of the provisions of this act, or any of the provisions or conditions of his said liquor dealer's bond, it shall be the duty of the clerk of said court to immediately notify the Comptroller of Public Accounts of the State of Texas, at Austin, Texas, of the result of such hearing. It shall be the duty of the county attorney to prosecute all complaints made as hereinbefore provided for, or in any other manner in this act provided for, against any person or firm engaged in the business of a retail liquor dealer or a retail malt dealer, as the case may be, at the time which is designated by the county judge for the hearing of said complaint, in case either party makes affidavit showing good cause why he can not at that time try the matters in issue, then said hearing may be postponed for a time not to exceed three days, and provided that no more than two postponements shall be granted to either party.

Sec. 9. That any person, or persons, desiring to obtain a "retail liquor dealer's license" in this State, or a "retail malt dealer's license," shall before filing his or their petition for such license with the county judge as now provided by this act, make application under oath, to the Comptroller of Public Accounts of this State for a permit to apply for a license to engage in such business, which application shall be in form substantially as follows:

"To the Comptroller of Public Accounts of the State of Texas:

I (or we) .....and.....
of the county of .....,
State of Texas, hereby apply for a

permit to apply for a license to engage in the business of retail liquor dealer or dealers (or retail malt dealer or dealers) under the laws of this State, said business to be conducted at No. ..... street, in ..... in the county of ....., State of Texas; that there is now no statute or ordinance of the city in force prohibiting the retail sale of liquors at said place; that I (or we) have resided for the past two years in ..... county, State of Texas, and during said time have been engaged in the business of .....; that I am (or we are) not disqualified under the laws of this State from engaging in the proposed business; that no other person or corporation is in any manner interested or to be interested in the proposed business; that I (or we) have not since the first day of May, A. D. 1909, as owner, or as the representative, agent or employe of any other person, kept open any saloon or place of business where spirituous, vinous or malt liquors or medicated bitters capable of producing intoxication were sold, or sold, aided or advised any other person in selling in or near any such house or place of business any such liquor after 12 o'clock midnight on Saturday and between that hour and 5 o'clock a. m. of the following Monday of any week; or since said date, either in person or by agent or employe, knowingly sold or permitted to be sold or given away in or near any such place of business, any spirituous, vinous or malt liquors or medicated bitters capable of producing intoxication to any person under the age of 21 years, or to any student of any institution of learning or to any habitual drunkard, after having been notified in writing through the sheriff or other peace officer by the wife, sister, father, mother or daughter of such person not to sell to such habitual drunkard, or permitted any person not over the age of 21 years to enter and remain in such house or place of business or permitted any games prohibited by the laws of this State to be played, dealt or exhibited in or about such house or place of business or rented or let any part of the house or place of business in which such business was conducted to any person or persons for the purpose of conducting any game or games prohibited by the laws of this State; or knowingly sold or given away any adulterated or impure liquors of any kind, or sold or permitted, aided or advised in selling under a 'retail malt dealer's license any other liquors than those defined by the law as 'malt liquors.'

"And if the permission herein sought be granted and the said retail license be issued, I (or we) will not either in person or knowingly by any agent, employe or representative, during the year for which such license shall run, keep open house or place where liquors shall be sold under such license for the sale thereof or transact such business in such house or place of business after 12 o'clock midnight on Saturday and between that hour and 5 o'clock a. m. on the following Monday of any week; or knowingly sell in or near any such place of business or give away, or permit to be given away, any spirituous, vinous or malt liquors or medicated bitters capable of producing intoxication to any person under the age of 21 years, or to any student of any institution of learning, or to any habitual drunkard, after having been notified in writing through the sheriff or other peace officer, by the wife, mother, father, daughter or sister not to sell to such habitual drunkard; or permit any person not over the age of 21 years to enter and remain in such house or place of business, or permit any game prohibited by the laws of this State to be played, dealt or exhibited in or about such house or place of business or rent or let any part of the house or place of business in which such business is conducted to any person or persons for the purpose of conducting any game or games prohibited by the laws of this State; or knowingly sell or give away any impure liquor or adulterated liquors of any kind (and if the application be for a 'retail malt dealer's' license it shall further state that he or they under the said license will not sell any other liquors than those defined by law as 'malt liquors').

"And it is hereby agreed that if the license to be applied for be issued, that the same will be issued upon condition that it shall remain in force only so long as I (or we) observe and carry out each and all of the declarations herein made, and that in the event I (or we) violate any of the promises or do or perform any one or more of the acts which it is herein declared shall not be done or performed, that either the county judge or the Comptroller of Public Accounts of the State of Texas, in the manner provided in this act, may rescind, cancel and annul the said State and county license granted in pursuance of this application, and that all money paid for such license shall be forfeited

to the State and county or city to whom paid; and that I (or we) will at once, upon the cancellation of such license, close up the place where such business is being conducted, and cease to do such business, and will not within five years from that date again, either as owner, agent, representative or employe of any other person, attempt to enter into or engage in the retail liquor business, unless the order of the Comptroller cancelling and rescinding such license shall be annulled, in case such licenses shall have been cancelled by the Comptroller.

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"Sworn to and subscribed before me, a ..... within and for the county of ....., State of Texas, by .....on this, the....day of..... 19...

.....

"L. S. Signature of officer."

That upon receiving such application, it shall be the duty of the Comptroller to file the same and keep it as a permanent record in his office, to examine and act upon the same, and if he is satisfied that such applicant is entitled to such permit, he shall upon the payment to him by the applicant of $2.00, issue to him such permit, under his hand and the seal of his office which, together with a copy of such application, duly certified to under the hand and seal of the Comptroller, shall be delivered by him to the applicant, and the said permit, together with the certified copy of said application, shall be filed with the county judge, together with the petition for license to be filed with the county judge, and shall remain a permanent record in the office of the county judge, and no petition for license shall be entertained by the county judge until said certified copy and permit have been filed with him by the applicant.

Sec. 9a. That in addition to the power conferred by this act upon the county judge to cancel or revoke license, the Comptroller of Public Accounts of the State of Texas shall likewise have power to cancel or revoke such license in the following manner:

If the Comptroller shall at any time be advised or receive information that any person or persons to whom a retail liquor dealer's license or retail malt dealer's license has been issued, has violated any of the conditions and provisions set out in the application filed with the Comptroller for a permit to apply for such license, as provided in Section 9 of this act, it shall be his duty to at once institute an inquiry and ascertain, if possible, the names and residences of all persons who know of and will testify to the facts concerning such violation; and if it shall be necessary in making such inquiry to do so, he may call to his aid the State Revenue Agent, whose duty it shall be upon the request of the Comptroller to make a careful investigation of the charges and ascertain the names of the persons by whom such facts can be proven; and neither the Comptroller nor the State Revenue Agent shall disclose the name of any person who shall become an informer, or who shall aid in securing the names of such witness or evidence relating to such matters.

Sec. 9b. That upon securing the names of such witnesses it shall be the duty of the Comptroller to, in his discretion, either notify the county judge of the proper county of the alleged violation of this act by the licensee or to issue a commission addressed to an officer to be selected by the Comptroller, who is authorized under the laws of this State to take depositions in the county in which the place of business is located where he is advised such violation occurred, stating therein the violation of the law charged and the name or names of the persons charged therewith and directing him to take the deposition of the witnesses named in the commission, and the depositions of such other persons as may be required or necessary, and when such depositions are taken to return the same to the Comptroller in like manner as is provided by law governing the taking of depositions in civil suits in this State.

Provided, that if the Comptroller shall notify the county judge as above provided, it shall be his duty to proceed at once to cause to be instituted against such licensee the proper proceedings in his court as provided by this act, and if the county judge shall within ten days after receiving such notice cause to be instituted against such licensee the proper proceedings in his court, then the Comptroller shall proceed no further in the premises, but if the county judge shall upon receiving such notice fail or refuse to cause such proceedings to be instituted against the licensee or should the Comptroller elect to proceed himself without notifying the county judge, then in either of such cases the Comptroller shall proceed himself as in this act provided.

Sec. 9c. That upon receipt of said commission such officer shall set a day for taking the depositions of the witnesses and shall issue a subpoena commanding them to appear before him and testify on said day; and place the same in the hands of the proper officer for service on said witnesses; and shall also notify the county attorney of such county of the time when and the place where said depositions shall be taken, requesting him to appear at said time and place and interrogate said witnesses; and he shall also notify the person or persons who are charged with having conducted such business in violation of the law and whose conduct is to be investigated, of the character of the charge and of the time and place where said investigation will be conducted, and that he or they shall have the right to appear in person or by attorney and cross-examine the said witnesses, and if they so desire to testify themselves or to offer the testimony of other witnesses relating to the matter under investigation; and the person whose conduct is to be investigated shall have the right to all proper process to compel the attendance of witnesses whose testimony he may desire.

Sec. 9d. If the said witnesses shall fail to obey the said subpoena, then the said officer shall issue and cause to be served upon them attachments to compel their attendance, and he may punish them for contempt for failure to attend and testify as provided by law in case of taking depositions in civil suits in this State.

Sec. 9e. If the county attorney shall fail or refuse to appear and conduct the examination of said witnesses, the said officer authorized to take such depositions may appoint some practicing attorney of said county to act in the absence of the county attorney, as special county attorney, and the said officer taking the depositions shall have the power, independently of the county attorney or any other person, to interrogate the witnesses so as to develop fully the facts.

Sec. 9f. At the time fixed the said officer shall proceed to take the depositions of said witnesses in answer to oral questions to be propounded to them, and shall cause the questions and answers to be written down and the depositions to be subscribed and sworn to by the witnesses, respectively, as provided by law for taking depositions, and such officers shall make a thorough investigation of the facts relating to the charges and he may summon other witnesses than those whose names have been furnished to him, and when the taking of the testimony is concluded, and the depositions subscribed and sworn to by the witnesses, he shall certify thereto and shall seal up the commission, together with the depositions in an envelope or package in like manner as is required by law in returning depositions in civil suits in this State, and deposit the same in the postoffice, postage prepaid, addressed to the Comptroller of Public Accounts of the State of Texas, at Austin, Texas.

Sec. 9g. That upon receipt of the said depositions, the Comptroller shall open and proceed to consider the same, and if he shall determine from the preponderance of the credible evidence therein contained, that, at any time after the issuance of said license the house or place where the business of selling liquors under said license was conducted was kept open and business conducted therein after midnight on Saturday and between that hour and 5 o'clock a. m. on the following Monday of any week; or that any intoxicating liquors or medicated bitters capable of producing intoxication were knowingl sold, permitted to be sold or given by the holder or holders of such license to any person under the age of twenty-one years, or to any student of any institution of learning, or to any habitual drunkard after having been notified in writing through the sheriff or other peace officer, by the wife, mother, father, daughter or sister of such habitual drunkard not to sell same to him, or that any person not over the age of 21 years had been permitted to enter and remain in such house or place of business, or that games prohibited by laws of this State had been permitted to be played, dealt or exhibited in or about such house or place of business, or that the person or persons holding such license had rented or let any part of the said house or place of business where such business is conducted to any person or persons for the purpose of conducting any game or games prohibited by the laws of this State, or that the person or persons holding such license had knowingly sold or given away any adulterated or impure liquors of any kind, or sold or knowingly permitted to be sold, or aided or advised in selling, under a retail malt dealer's license, any other liquors than those defined by law

as malt liquors, he shall rescind, vacate and withdraw such license and shall issue a certificate in triplicate under his hand and the seal of said office, declaring the rescission of such license, theretofore issued to such person or persons, one copy of which certificate shall remain on file in his office, and one copy shall be forwarded by the Comptroller by mail to the county judge of the county where the place of business of the person or persons whose license is withdrawn and rescinded is located, and the other copy shall be forwarded by mail to the person or persons whose license has been so rescinded and withdrawn; and it shall be unlawful thereafter for such person or persons to continue such business, and any attempt to do so shall subject him or them to the penalty herein provided for pursuing such business without a license; and any person or persons whose license has been so rescinded and withdrawn shall forfeit to the State, county and city all money paid therefor, and they shall never have any claim against the State, county or city on account of any money paid for such license.

Sec. 9h. That any person feeling himself aggrieved by the action of the Comptroller in vacating, annulling and rescinding such license under this act, may bring suit in the district court of the county of his residence, in Texas, against the Comptroller to reinstate such license, but the business conducted under such license shall be suspended during the pendency of such suit, and shall not be reopened unless the order of the Comptroller shall be set aside by final judgment of the proper court, but if such order shall be by a final judgment set aside, then such licensee shall have the right to pursue such occupation under such license without paying any additional tax for a period to be added to the time of the license equal to the time his right to do business was suspended.

Sec. 9i. That the county attorney or his substitute shall receive $5.00 per day for attending the taking of depositions and interrogating the witnesses during the time necessarily consumed in the investigation herein provided for; the officer taking the deposition shall receive the same fees as are provided by the law for taking depositions, and the witnesses shall receive the same fees provided in criminal cases, the amount of which shall be fixed by the certificate of the officer taking the depositions, and shall be paid by the State upon warrants issued by the Comptroller.

Sec. 9j. The Comptroller of Public Accounts of the State of Texas shall not issue any permits to any person or firm for any city or town or justice precinct of any county in excess of the number of permits actually issued and existing on the 20th day of February, 1909, in such city or town or justice precinct, respectively, unless such number of permits are less than one for each 500 inhabitants, in which event he shall, if applied for, issue permits not exceeding one for each 500 inhabitants of such city or town or justice precinct. In case the number of permits issued and existing on the 20th day of February, 1909, for each said city or town or justice precinct is in excess of one for each 500 inhabitants, the number of permits existing on the 20th day of February, 1909, as applied for, shall be granted, but that number shall not be increased until the number of inhabitants of such city or town or justice precinct increases to the extent that the permits issued and actually in existence on February 20, 1909, is less than one for each 500 inhabitants, but the provisions of this section shall not apply to hotels now in existence or which may hereafter be opened, when located in the business section of a city or town, having a population of over 20,000, and provided, that in granting permits for licenses as a retail liquor dealer or a retail malt dealer the Comptroller of Public Accounts shall give preference to those applicants who apply for a permit to do business at the places and locations in said city or town or justice precinct where permits had heretofore been issued and granted; provided, further, that at least one permit may be issued in any city, town or justice precinct, when local option is not in force. The population of each city, town or justice precinct in the State shall be ascertained by the commissioners court of such county at the August term thereof of each and every year, in the following manner: It shall be the duty of the superintendent of public instruction for such county, upon the request of such commissioners court to inform such commissioners court of the total school census of each city and town and justice precinct, and it shall be the duty of the commissioners court in determining the population of such city, town or justice precinct to estimate the population at

the rate of six persons for every one name on such scholastic census, and upon such basis, at the August term of said court of each and every year, to ascertain and determine the population of such city, town and justice precinct, and to enter an order and decree upon the minutes of said court finding and determining what such population is, and shall send a certified copy thereof to the Comptroller of Public Accounts of the State of Texas.

Sec. 10. Any person or firm desiring a license as a retail liquor dealer or as a retail malt dealer, may in vacation or in term time file a petition with the judge of the county court of the county in which he desires to engage in such business, which petition shall have attached thereto as exhibits, the permit and copy of application required by Section 9 hereof, and shall state that the applicant is a law-abiding, taxpaying male citizen of the State of Texas, over the age of 21 years, and has been a resident of the county wherein such license is sought for more than two years next before the filing of such petition; that his license as a retail liquor or retail malt dealer has not been revoked or forfeited within five years next before the filing of such petition; that he desires a license as a retail liquor dealer or as a retail malt dealer, as the case may be, specifically stating the place where such business is to be conducted, describing with reasonable certainty the house or place wherein the same is to be conducted, and if the place of business be in any block or square of any town or city where there are more bona fide residences than there are business houses in said block or square, or in any block where there is a church or school, then said petition shall be accompanied with written consent of a majority of the bona fide householders or residents in said block or square, who have resided for at least six months preceding such application within 300 feet of such place of business. Upon the filing of the petition herein provided for, the county judge shall set the same for hearing at a time not less than ten nor more than twenty days from the filing of same, and if, upon the trial or hearing thereof, he finds that facts stated in said petition are true and that the same is accompanied by the permit aforesaid, he shall grant a license such as prayed for; provided, however, that upon the filing of such petition, the clerk of the county court shall give notice of the filing thereof, by posting on the court house door a written notice of such petition, together with the substance thereof; and the petition when filed shall remain with said clerk until the same is acted upon by the county judge and shall be open to the inspection of any person desiring to see the same. And any resident taxpaying citizen residing or owning property in the block or square where said business is to be conducted, or any such citizen residing or owning property within 300 feet of the proposed place of business, or the county or district attorney shall be permitted to contest the facts stated in such petition and the applicant's right to obtain the license sought, upon giving security for all costs which may be incurred in such suit, should the same be decided in favor of applicant; provided, no county nor district attorney shall be required to give bond for such costs, but the county or State, as the case may be, shall be liable therefor.

Sec. 10a. The county judge shall in no case grant a license in any village, town or city, where the proposed place of business is within 300 feet of a church, school or other educational or charitable institution, the measurements to be along the property lines of the street fronts, and from front door to front door, and in a direct line across intersections where they occur; provided, the proposed place of business is not within a business block, or within 300 feet thereof, as such block is defined in Section 10 hereof.

Section 11. Upon the hearing of the petition, as provided in Section 10 hereof, the county judge shall determine the truth or falsity of the facts alleged, and shall render his judgment granting or refusing the license accordingly, and shall cause the same to be recorded at length, in a book kept for that purpose, which book shall be a record of said court and shall be preserved by the clerk as an archive of his office.

Sec. 12. Upon the granting of a license by the county judge, as provided by law, the clerk shall furnish the applicant with a certified copy of the judgment, which, when exhibited to the county tax collector of the license tax herein provided for, said collector shall receive said license tax and issue to such applicant his receipt therefor, showing the amount paid, date of payment, for

what paid, whether retail liquor dealer or retail malt dealer's license, and where such business is to be conducted.

Sec. 13. Upon the presentation to the county clerk by the applicant of the tax collector's receipt, provided for in the preceding section, and delivery to him of the bond provided for in Section 15 of this act, he shall examine such bond and receipt, and if such bond conforms to the provisions of said Section 15 hereof, and if the said receipt conforms to the judgment authorizing the same, he shall issue to the applicant the proper license, which shall be by him signed, be under the seal of his office, be dated, state on its face for what it is issued, the date when it will expire, by whom and where such business is to be conducted, and shall describe the place where the same is to be kept.

Sec. 14. That every person or firm having a license under the provisions of this act, who may be engaged in or who may hereafter engage in the sale of intoxicating liquors to be drunk on the premises (in any locality of this State, other than where local option is in force) shall close and keep closed their houses and places of business and transact no business therein or therefrom from and after 12 o'clock midnight until 5 o'clock a. m., of each week day, and shall close and keep closed their houses and places of business and transact no business therein or therefrom from and after 12 o'clock midnight Saturday until 5 a. m., of the following Monday of each week, and any such person or firm or his or their agent or employe, who shall open or keep open, or permit to be opened or kept opened, any such house or place of business for the purpose of traffic, or who shall sell or barter any intoxicating liquor of any kind, or who shall transact or permit to be transacted therein or therefrom any such business between the hours aforesaid, shall be deemed guilty of a misdemeanor and on conviction shall be punished by a fine of not less than $25 nor more than $200, or by imprisonment in the county jail for not more than three months, or by both such fine and imprisonment.

Sec. 15. That every person or firm desiring to engage in the sale of spirituous, vinous or malt liquors or medicated bitters capable of producing intoxication, to be drunk on the premises, shall, before engaging in such sale, be required to enter into a bond in the sum of $5000; provided, however, that any person or firm dealing exclusively in malt liquors shall be required to give bond only in the sum of $1000, with at least two good, lawful and sufficient sureties, and the sureties required by law on the bonds of liquor dealers shall make affidavit before some officer authorized to administer oaths, that they, in their own right, over and above all exemptions, are each worth the full amount of the bond they sign as sureties, and no county judge shall approve any such bond unless the affidavit as provided for in this section shall have been duly made. The approval of any such bond by the county judge without such affidavit shall make said county judge liable for any penalty recovered on such liquor dealer's bond, and any person who shall make any false affidavit as required by this act shall be punished as provided for in the Penal Code of this State; provided, that nothing herein shall prevent the making of such bond by a surety company as permitted by law, payable to the State of Texas, to be approved as to security by the county judge, which bond shall be conditioned that said person or firm so selling spirituous, vinous or malt liquors or medicated bitters capable of producing intoxication, in any quantity, to be drunk on the premises, shall not, either in person or knowingly by any agent, employe or representative, during the year for which such license shall run, keep open the house or place where liquors shall be sold under such license for the sale thereof or transact such business in such house or place of business after 12 o'clock midnight on Saturday and between that hour and 5 o'clock a. m. on the following Monday of any week; and that such person or firm shall keep an open, quiet and orderly house or place for the sale of spirituous, vinous or malt liquors or medicated bitters capable of producing intoxication, and that such person or firm, or his or their agent or employe, will not sell or permit to be sold in his or their house or place of business, nor give nor permit to be given any spirituous, vinous or malt liquors or medicated bitters capable of producing intoxication to any person under the age of 21 years, or to a student of any institution of learning, or any habitual drunkard, after having been notified in writing through the sheriff or other peace officer by the wife, father, mother, daughter or sister of such habitual drunkard, said notice shall be in force and effect for a period of two

years, not to sell to any such person, and that he or they will not permit any person under the age of 21 years to enter and remain in such house or place of business; that he or they will not permit any games prohibited by the laws of this State to be played, dealt or exhibited in or about such house or place of business, and that he or they will not rent or let any part of the house or place in which he or they have undertaken to sell spirituous, vinous or malt liquors or medicated bitters capable of producing intoxication, in any quantity, to be drunk on the premises, to any person or persons for the purpose of running or conducting any game or games prohibited by the laws of this State; and that he or they will not adulterate the liquors sold by them in any manner, by mixing the same with any drug, and that he or they will not knowingly sell or give away any impure or adulterated liquors of any kind; which said bond shall be filed in the office of the county clerk of the county where such business is conducted, and shall be recorded by such clerk in a book to be kept for such purpose, for which service said clerk shall be entitled to a fee of 75 cents, which said bond may be sued on at the instance of any person or persons aggrieved by the violation of its provisions, and such person shall be entitled to recover the sum of $500 as liquidated damages for each infraction of the conditions of such bond, and the said bond shall not be void on the first recovery, but may be sued on until the full penal sum named therein shall have been recovered. In addition to civil proceedings for individual injuries brought on said bond, as above indicated, if any person or firm shall violate any of the conditions of the bond herein required, it shall be the duty of the county and district attorney, or either of them, to institute suit thereupon, or any person owning real property in the county, may institute suit thereupon, in the name of the State of Texas, for the use and benefit of the county, but no compensation shall be allowed such citizen, and he may be required to give security for costs, and the amount of $500 as a penalty shall be recovered from the principals and sureties upon the liquor dealer's bond upon the breach of any of the conditions thereof; and hereafter when any recovery is had by any person or by any county or district attorney for the use and benefit of the county in any action in any court of competent jurisdiction upon the bond of any person or firm engaged in the sale of spirituous, vinous or malt liquors or medicated bitters capable of producing intoxication, or malt liquors exclusively, to be drunk on the premises, in any locality other than where local option is in force, upon the ground that such licensee sold or permitted to be sold, or gave or permitted to be given any such liquors to a minor in his place of business, or permitted a minor to enter or remain in his place of business, or sold such liquor to any habitual drunkard after having been notified in writing not to sell to such habitual drunkard or that such licensee permitted prostitutes or lewd women to enter and remain in his place of business, or permitted any games prohibited by the law to be played, dealt or exhibited in or about his place of business, or of renting or letting his place of business or any part thereof for such purpose or purposes, the license of such person or firm shall by reason of such recovery, be forfeited, revoked and cancelled and the court entering judgment of recovery shall also enter an order declaring forfeited, revoked and cancelled such license, and the unearned portion of the occupation tax paid therefor shall not be refunded, but shall be forfeited to the State and county, city or town to which the money for the same may have been paid. And any person or firm who shall sell any such liquors or medicated bitters, in any quantity, to be drunk on the premises, without first giving bond as required by this act, or who shall sell the same after said license shall have been forfeited, revoked or cancelled, shall be deemed guilty of a misdemeanor, and on conviction shall be fined in the same amount provided for sales where no license has been obtained.

An open house in the meaning of this chapter is one in which no screens or other device is used or placed inside or outside of such house or place of business for the purpose of, or that will obstruct the view through the open door or place of entrance into any such house or place where intoxicating liquors are sold, to be drunk on the premises.

A quiet house or place of business in the meaning of this chapter is one in which no music, loud or boisterous talking, yelling or indecent or vulgar language is allowed, used or practiced, or any other noise calculated to disturb or annoy any person residing or doing business in the vicinity of such house or

place of business, or those passing along the streets or public highways.

By an orderly house is meant one in which no prostitutes or lewd women or woman are allowed to enter or remain; and it is further provided, that said house must not contain any vulgar or obscene pictures.

Any surety on such bond may relieve himself from further liability thereon by giving the principal in said bond notice in writing that he will no longer remain as surety thereon, and by filing with the county judge an affidavit that such notice has been given, and if within five days after such notice the principal fails to make a new bond he shall cease to pursue said business until a new bond is given. Any person who shall continue to pursue said business after such notice is given, and such affidavit is filed, shall be guilty of a misdemeanor and shall be punished as provided in cases where no license has been procured, provided, that where the sale was made in good faith, or the minor permitted to enter and remain in good faith, with the belief that the minor was of age, and there is good ground for such belief, that shall be a valid defense to any recovery on such bond; provided, further, that where the sale to an habitual drunkard is made in good faith, with the belief that he is not an habitual drunkard, and there is good grounds for such belief, that shall be a valid defense to any recovery on such bond; provided, the provisions of this act shall apply to suits by the State or of any individual. Provided, that no license shall be issued under this act to any person who has been convicted of a felony and served such term of conviction.

Sec. 16. In the event of the death of any licensee under this act, leaving an unearned portion of any license issued under this act, the heirs, executors, administrators or legal representatives of such deceased person may present the license of such person to the State and county and receive payment of the unearned portion of such license tax collected by them, respectively.

Sec. 17. The clerk of the county court shall make out a statement of all such licenses granted by him and the amount paid the collector on each for State and county taxes and report the same to the Comptroller of Public Accounts of the State.

Sec. 18. That hereafter when the license issued to any person or firm to engage in the sale of spiritous, vinous or malt liquors or medicated bitters capable of producing intoxication, or malt liquors exclusively, to be drunk on the premises, in the locality other than where local option is in force, has been declared forfeited, by either the county or district court, revoked or cancelled, it shall be the duty of the clerk of the county or district court to immediately certify such forfeiture under the seal of such court to the Comptroller of Public Accounts of the State of Texas, which said certificate shall state the date of such forfeiture, the number and the nature of the cause, and the name and residence of the licensee or defendant, the name of the person and style of the firm, and the names and places of residence of the individual members of any such firm or the name and place of residence of any such person, as the case may be, as shown by the application for license filed by such person or firm in the county court, for which service the clerk shall receive a fee of $1, to be taxed against the defendant or defendants. And it shall be the duty of the Comptroller upon receiving any such certificate to file and record the same in a book to be kept by him for such purpose, and he shall likewise record all such forfeitures by him made and thereafter no permit or license shall be issued to any such person or firm or to any member of any such firm to engage in the sale of spirituous, vinous or malt liquors, or medicated bitters capable of producing intoxication, or malt liquors exclusively, within the period of five years from and after the date of entry of such forfeiture.

Sec. 19. Every retail liquor dealer or malt liquor dealer, or other person who shall knowingly sell, give away, deliver or otherwise dispose of, or suffer the same to be done, about his premises, any intoxicating liquor in any quantity to any minor, or who shall have in his employ about his place of business, or who shall permit any minor to enter and loaf or remain in his place of business, shall be guilty of a misdemeanor, and upon conviction therefor shall be punished by a fine of not less than $10 nor more than $200, or by imprisonment in the county jail for not longer than sixty days, or by both such fine and imprisonment.

Sec. 20. Any sale, gift or other disposition of intoxicating liquors knowingly made to any minor, or to any habitual drunkard, or on any Sunday or

election day by an agent, clerk or other person acting for any retail liquor dealer or retail malt dealer, or other person, shall be deemed and taken to be for all purposes of this act, as the act of such retail liquor dealer or retail malt dealer or other person.

Sec. 21. Any person or firm doing business under a retail malt dealer's license in this State who shall sell any spirituous or vinous liquors other than those defined by law as malt liquors, shall upon conviction therefor, be punished by a fine of not less than $100 nor more than $300, and by imprisonment in the county jail not less than thirty days nor more than six months, and shall in addition to the punishment herein prescribed forfeit his license as a retail malt dealer, and the court in which such conviction is had shall cause such forfeiture to be entered in the judgment of conviction, and such retail malt dealer shall henceforth be deemed to have no license, and the clerk of said court shall certify such forfeiture to the Comptroller of Public Accounts, as elsewhere herein provided.

Sec. 22. No retail liquor dealer's nor retail malt dealer's license shall be issued to any person whose license as either a retail liquor dealer or retail malt dealer has been revoked or forfeited within five years before the filing of his application for license, or who has had in his employ in his business of retail liquor dealer, or retail malt dealer, any person whose license has been revoked or forfeited within five years next before the filing of such application.

Sec. 23. No license shall be granted to any person as a retail liquor dealer or as a retail malt dealer who shall have carried on any such business after the expiration of his license previously issued and without having received a license for such purpose, or whose license shall have been revoked or forfeited under the provisions of this act, within five years before the filing of his application for such license. No license shall be issued to any person to do business as a retail liquor dealer or retail malt dealer in any house or building used for the purpose of prostitution or as a house of assignation, or as a house of ill-fame, or gambling house. If, after a license has been issued to a retail liquor dealer or retail malt dealer, the building in which the same is located shall be used for the above mentioned purpose, or any of them, with the knowledge and consent of such licensee, his license may be revoked, as hereinafter provided.

Sec. 24. It shall be unlawful for any retail liquor dealer or retail malt dealer to use, exhibit, suffer to be kept, exhibited or used in his place of business any piano, organ or other musical instrument whatever, for the purpose of performing upon or having the same performed upon in such place, or to permit any sparring, boxing, wrestling or any other exhibition or contest or cock fight in his place, or to set up, keep, use or permit to be kept or used in or about the said premises, or by any other person, or to run or to be run in connection with such place of business, in any manner or form whatever, any billiard table, pool table or gaming table, bowling or ten pin alley, cards, dice, dominoes or any other device for gaming or playing any game of chance, or to permit any person to play at, on or with such tables, alleys, cards, dice, dominoes or other device of any kind. Any retail liquor dealer or retail malt dealer violating any of the provisions of this section shall upon conviction be fined in a sum not less than $25 nor more than $200, or by imprisonment in the county jail for not longer than thirty days, or both such fine and imprisonment.

Sec. 25. No retail liquor dealer or retail malt dealer shall employ or suffer to be employed other than a member of his family, any female as a servant, bartender or waitress in his place of business, nor permit on said premises any dancer, singer or lewd woman, and any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by imprisonment in the county jail for not more than twelve months, or by a fine not exceeding $500, or both such fine and imprisonment.

Sec. 26. It shall be unlawful for any retail liquor dealer or retail malt dealer to sell, give away, or otherwise dispose of, or suffer the same to be done about his premises, any intoxicating liquors to any habitual drunkard after he shall have been notified by the wife, father, mother, brother, sister, child or guardian of such person not to sell, give away or furnish to such person any intoxicating liquors, and any retail liquor dealer or retail malt dealer violating this section shall be fined not less than $25 nor more than $200, or by imprison-

ment in the county jail for not exceeding six months, or punished by both such fine and imprisonment.

Sec. 27. This act, or any of the provisions thereof, shall not be construed to be in conflict with any local option law now or hereafter to be in force in this State, and no license to any retail liquor or retail malt dealer shall be issued or shall be effective at any place where local option law is in force and operation.

Sec. 28. Any license required by this act shall be posted in some conspicuous place in the house where the business or occupation for which such license is necessary, is carried on, before engaging in such business or occupation, and any person so licensed who fails to so post the same shall be fined not exceeding $100.

Sec. 29. It shall be unlawful for any retail liquor dealer or retail malt dealer to sell or offer for sale any intoxicating liquors at any place where people have assembled for religious worship, or for educational or literary purposes, or in any election precinct on any election day, and any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than $50, nor more than $200, or by imprisonment in the county jail for not exceeding six months, or by both such fine and imprisonment.

Sec. 30. The county clerk of any county in this State where intoxicating liquors are sold, having a population of more than 50,000 inhabitants shall make out a list of all persons then having a license under the provisions of this act, and shall deliver the same to each grand jury empaneled in such county. Said list shall be arranged in alphabetical order; shall give the names of the persons to whom same were issued, the date of its issue, the date it will expire, stating whether the same is a retail liquor dealer's or retail malt dealer's license, and shall describe where said license was to be used.

Sec. 31. The judges of the district courts in this State shall give this act in special charges to each grand jury empaneled in their respective districts.

Sec. 32. The county clerk, county judge and other officers shall receive for services rendered in the carrying out of this law such fees as are now allowed by law for similar services.

Sec. 33. In case the license of any retail liquor dealer or retail malt dealer is forfeited under any of the provisions of this act, nevertheless such licensee shall be authorized to sell or dispose of in bulk any stock of intoxicating liquors he may have on hand at the time such license is forfeited.

Sec. 34. The term "intoxicating liquor," as used in this act, shall be construed to mean fermented, vinous or spirituous liquors or any composition of which fermented, vinous or spirituous liquors is a part; and all of the provisions of this act shall be liberally construed as remedial in character.

Sec. 35. All laws and parts of laws in conflict with this act are hereby expressly repealed; provided, all of the provisions relating to the sale of intoxicating liquors contained in any special charter granted by the Legislature to any city or town shall not be repealed by this act, but the same shall oe cumulative thereof; provided, that as soon as this law goes into effect all licenses heretofore issued shall immediately cease and determine, but the holders of such licenses shall have until sixty days after this act takes effect in which to obtain licenses under this act, said licenses to be dated as of the date this act takes effect, and the tax collector shall give such licensee credit for the unearned portion of such cancelled license as of the date this act takes effect; and provided, during said sixty days said licensee shall have the right to pursue his business under and in accordance with the cancelled license and the laws applicable to the same, which for that purpose are hereby kept in force for said sixty days.

Sec. 35a. If, for any reason, any section or part of this act shall be held by the courts to be unconstitutional or invalid, then that fact shall not invalidate any other part of this act, but the same shall be enforced without reference to the parts, if any, which shall be so held to be invalid, unless the entire act shall be held to be invalid.

Sec. 36. The fact that the present law is defective, and that the calendar is greatly crowded, and the end of the session is near at hand, creates an emergency and an imperative public necessity for the suspension of the constitutional rule requiring bills to be read on three several days, and that this act should be in force from and after its passage, it is therefore hereby so enacted.

(Minority Report.)

Committee Room,
Austin, Texas, April 11, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: We, your Judiciary Committee No. 2, to whom was referred

House bill No. 66, A bill to be entitled "An Act to amend Chapter 138 of the Acts of the Thirtieth Legislature, approved April 18, 1907, the same being an 'An Act to regulate the sale and disposition of spirituous, vinous and malt liquors and medicated bitters capable of producing intoxication, and the places wherein same are sold; imposing an occupation tax upon persons, firms, corporations and association of persons, selling spirituous, vinous or malt liquors or medicated bitters capable of producing intoxication," etc.

Have had the same under consideration, and beg leave to report it back to the Senate with the recommendation that it do pass, and be not printed.

ALEXANDER,
COFER,
STURGEON.

Committee Room,
Austin, Texas, April 11, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Enrolled Bills, to whom was referred

Senate bill No. 85, "An Act creating and incorporating the Bronte Independent School District, in Coke county, Texas," etc.,

Have carefully compared same, and find it correctly enrolled, and have this day, at 10:30 o'clock a. m., presented same to the Governor for his approval.

TERRELL of McLennan, Chairman.

Committee Room,
Austin, Texas, April 11, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Enrolled Bills, to whom was referred

Senate bill No. 50, "An Act amending Article 1525 of the Revised Statutes of the State of Texas, fixing the terms of the criminal district court of Galveston and Harris counties,"

Have carefully compared same, and find it correctly enrolled, and have this day, at 10:30 o'clock a. m., presented same to the Governor for his approval.

TERRELL of McLennan, Chairman.

Committee Room,
Austin, Texas, April 11, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Enrolled Bills, to whom was referred

Senate bill No. 86, "An Act creating and incorporating the Robert Lee Independent School District," etc.,

Have carefully compared same, and find it correctly enrolled, and have this day, at 10:30 o'clock a. m., presented same to the Governor for his approval.

TERRELL of McLennan, Chairman.

Committee Room,
Austin, Texas, April 11, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Enrolled Bills, to whom was referred

Senate bill No. 79, "An Act to diminish the civil and criminal jurisdiction of the county court of Crockett county, and the county court of Edwards county; to conform the jurisdiction of the district courts thereto, and to repeal all laws in conflict therewith, and declaring an emergency,"

Have carefully compared same, and find it correctly enrolled, and have this day, at 10:30 o'clock a. m., presented same to the Governor for his approval.

TERRELL of McLennan, Chairman.

Committee Room,
Austin, Texas, April 10, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Enrolled Bills have carefuly examined and compared House bill No. 24, and find it correctly enrolled, and have this day, at 11:30 o'clock a. m., presented same to the Governor for his approval.

TERRELL of McLennan,
Chairman.

Following is the enrolled bill in full:

Senate bill No. 24.

An Act declaring corporations, receivers, or other persons operating railroads in this State, to be liable to employes for injuries received through the negligence of such employer, officer, agent or servant, or, in case of death from such injury, to be liable to the surviving widow and children, or husband and children, and mother and father of the deceased; and if none, then of the next of kin dependent upon such employes; prescribing the effect of

contributory negligence and assumed risk upon the right of recovery; declaring void any contract, rule or regulation intended to enable the employer to limit liability; also providing that employer shall be entitled to set off against any claim any sum contributed by such employer to a fund provided for such cases and which was actually paid to the injured party, and exempting such recovery from the debts of the deceased, and providing that the recovery shall be apportioned by the jury, or court trying the case without a jury, among those entitled to recover; providing how and by whom suit may be brought, and also that nothing in this act shall impair any right under any other law of this State or of the United States, or in any way interfere with any proceeding now pending in any court, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That every corporation, receiver or other person operating any railroad in this State, shall be liable in damages to any person suffering injury while he is employed by such cafrier operating such railroad; or, in case of the death of such employe, to his or her personal representative for the benfit of the surviving widow and children and husband and children, or mother and father of the deceased, and if none, then of the next kin dependent upon such employe for such injury or death resulting in whole or in part from the negligence of any of the officers, agents or employes of such carrier, or by reason of any defect or insufficiency due to its negligence, in its cars, engines, appliances, machinery, track, roadbed, works, boats. wharves or other equipment; provided, the amount recovered shall not be liable for the debts of deceased and shall be divided among the persons entitled to the benefit of the action, or such of them as shall be alive, in such shares as the jury or court trying the case without a jury, shall deem proper, and provided in case of the death of such employe the action may be brought without administration by all the parties entitled thereto, or by one or more of them for the benefit of all, and if all parties be not before the court the action may proceed for the benefit of such of said parties as are before the court.

Sec. 2. That in all actions hereafter brought against any such common carrier by railroad under or by virtue of any of the provisions of this act to recover damages for personal injuries to an employe, or where such injuries have resulted in his death, the fact that the employe may have been guilty of contributory negligence shall not bar a recovery, but the damages shall be diminished by the jury in proportion to the amount of negligence attributable to such employe; provided, that no such employe who may be injured or killed shall be held to have been guilty of contributory negligence in any case where the violations by such common carrier of any statute enacted for the safety of employes contributed to the injury or death of such employe.

Sec. 3. That any action brought against any common carrier under or by virtue of any of the provisions of this act to recover damages for injuries to, or the death of any of its employes, such employe shall not be held to have assumed the risks of his employment in any case where the violation of such common carrier of any statute enacted for the safety of employes contributed to the injury or death of such employe.

Sec. 4. That any contract, rule, regulation or device whatsoever, the purpose or intent of which shall be to enable any common carrier to exempt itself from any liability created by this act, shall to that extent be void; provided, that in any action brought against any such common carrier under or by virtue of any of the provisions of this act, such common carrier may set off therein any sum it has contributed or paid to any insurance, relief benefit or indemnity that may have been paid to the injured employe or the person entitled thereto on account of the injury or death for which said action was brought.

Sec. 5. That nothing in this act shall be held to limit the duty or liability of common carriers or to impair the rights of their employes under the assumed risk law enacted by the Twenty-ninth Legislature and known as Chapter 163, page 386 of the General Laws of the Twenty-ninth Legislature, any other act or acts of the Legislature of this State, though in case of conflict this law shall prevail, or to affect the prosecution of any pending proceeding or right of action under the laws of this State.

Sec. 6. The fact that a conflict may arise between the Federal courts and the courts of this State in construing the Federal and State statutes of this State in suits against common carriers

by employes for damages on account of personal injuries, create an emergency and an imperative public necessity exists that the constitutional rule requiring bills to be read on three several days be suspended, and this act take effect and be in force from and after its passage, and it is so enacted.

Committee Room,
Austin, Texas, April 11, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Enrolled Bills have carefully examined and compared Senate bill No. 64, and find it correctly enrolled, and have this day, at 10:30 o'clock a. m., presented same to the Governor for his approval.

TERRELL of McLennan, Chairman.

Following is the enrolled bill in full:

S. B. No. 64. By Hudspeth.

An Act to authorize and empower the State Health Officer to isolate and return to their homes indigent consumptives sojourning in other sections of the State; providing appropriation to carry this law into effect; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. Hereafter when any indigent person suffering from tuberculosis and is sojourning in any other county than his residence makes application for financial relief to any county health officer or commissioner court of any county in this State before any relief is granted he shall make an affidavit that he is indigent and unable to provide for himself, when such affidavit is made it shall be the duty of the county health officer or county judge to forthwith notify the State Health Officer of the case, giving the name of the patient and the place of his residence. If such patient is a bona fide citizen of any county within the State of Texas, it shall be the duty of the State Health Officer, and he shall have the power, to purchase a ticket for said patient and furnish him with sufficient additional means to purchase food en route to his former home and return such patient thereto.

Sec. 2. An appropriation of $20,000 is hereby made from the general revenue of this State, not otherwise appropriated, for the purpose of carrying this law into effect and shall be paid out upon the warrant of the Comptroller upon the verified account of the person receiving the aid approved by the State Health Officer and the county judge of the county where such patient is so temporarily sojourning.

Sec. 3. The fact that many persons of indigent circumstances go to the counties in the western part of the State seeking relief from the dreadful disease of tuberculosis and soon become charges on the charity of the people of that section of the State, creating demands upon the humanitarianism and benevolence of such people far beyond their ability to meet all such requirements, creates an emergency and imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended and that this act take effect and be in force from and after its passage, and it is so enacted.

Committee Room,
Austin, Texas, April 11, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Enrolled Bills have carefully examined and compared Senate bill No. 35, and find it correctly enrolled, and have this day, at 10:30 o'clock a. m., presented same to the Governor for his approval.

TERRELL of McLennan, Chairman.

Following is the enrolled bill in full:

S. B. No. 35. By Brachfield et al.

An Act to amend Article 402, Chapter 6, Title 11 of the Penal Code, as amended by Chapter 40 of the General Laws of the Twenty-eighth Legislature.

Be it enacted by the Legislature of the State of Texas:

Section 1. That Article 402 of Chapter 6, Title 11, Penal Code, as amended in Chapter 40 of the General Laws of the Twenty-eighth Legislature, be and the same is hereby amended so as to hereafter read as follows:

"Article 402. If any person shall sell any intoxicating liquor in any county, justice precinct, school district, city or town or subdivision of a county in which the sale of intoxicating liquors has been prohibited under the laws of this State, or if any person shall give away any intoxicating liquor in any such county, justice precinct, school district, city or town or subdivision of a county, with the purpose of evading the provisions of said law, he shall be punished by confinement in the penitentiary not less than one nor more than three years; provided the penalties as now provided by law shall remain in force in such

political subdivisions wherein the sale of intoxicating liquors is now prohibited by law and this act shall have force and effect and in the counties, justice precincts, cities, towns and subdivisions hereafter voting to prohibit the sale of intoxicating liquors. Upon complaint under oath by any credible person being filed with any county judge or justice of the peace, describing the place where it is believed by the person making the complaint that intoxicating liquor is being sold or given away in violation of law, such county judge or justice of the peace shall issue his warrant directing and commanding the sheriff or any constable of his county to search such place, and if the law is being violated, to arrest the person so violating it, and it shall be the duty of the officer to whom such warrant is delivered to search the place described in the warrant, to seize all intoxicating liquors found therein and arrest and bring before the county judge or justice who issued the writ all persons connected with such business, either as proprietor, manager, clerk or other employe, and if admission into said place is refused, the officer executing said warrant is hereby authorized to force open the same. In prosecutions under this article where it is proven that there is posted up at the place where such intoxicating liquor is being sold or given away with the purpose of evading the provisions of the law, United States internal revenue liquor and malt license to any one, it shall be prima facie proof that the person to whom such license is issued is engaged in the sale of intoxicating liquor."

Sec. 2. The fact that the existing law does not provide sufficient punishment for the unlawful sale and gift of intoxicating liquors in territory where prohibition is in force, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Committee Room,
Austin, Texas, April 11, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Enrolled Bills have carefully examined and compared Senate bill No. 69, and find it correctly enrolled, and have this day, at 10:30 o'clock a. m., presented same to the Governor for his approval.

TERRELL of McLennan, Chairman.

Following is the enrolled bill in full:

S. B. No. 69. By Masterson.

An Act to provide a home for lepers, and to provide for the isolation, care and treatment of persons suffering with leprosy, and to make an appropriation therefor, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. The Governor of Texas shall, as soon as practicable after the taking effect of this bill, appoint a commission to consist of the State Health Officer and two other citizens of the State of Texas, for the purpose of selecting a site for the erection of an institution to be known as the State Home for Lepers; such commission shall report within thirty days to the Governor their selection, which selection shall consist of not less than 100 acres of land, which said site shall not be less than five miles distant from any town or city within this State, and not less than one mile distant from any residence; said site shall upon selection by the commission aforesaid be purchased for the State and shall cost not to exceed $2500. The Land Commissioner is hereby authorized upon the request of the board to award to the State any school land for the location of this home they may select, at the price fixed upon it by the Land Office; provided, nothing herein shall be construed as repealing any law now in force except as herein provided. Said members of said commission shall each be paid $5.00 per day and necessary expenses for the time actually consumed in the services required by this section of this law.

Sec. 2. As soon as practicable after the selection and purchase of such site, the said commission shall designate the exact location on the ground, and the character and plans for all necessary buildings, including a home for the superintendent of such home for lepers, said buildings to be on the cottage plan, and shall have plans and specifications made therefor, and shall advertise for thirty days in at least one newspaper of general circulation in this State and one newspaper published in the county where such home is to be located, for bids for the erection of such buildings, and shall award the contract to the lowest and best bidder, provided the total amount of said bid for all the buildings shall not exceed $10,000; and the said commission shall also purchase all necessary

furniture and equipment for said buildings, not to exceed in cost $1500.

Sec. 3. All payments of money required under the provisions of Section 1 and Section 2 of this act shall be made by warrant on the State Treasury drawn by the State Comptroller, based on vouchers signed by the Commission provided for in Section 1 and approved by the Governor.

Sec. 4. Any person within this State found to be suffering with the disease of leprosy shall be isolated and removed to said State Home for Lepers, upon certificate of the county health officer of the county where such leper may be, and of the State Health Officer to the effect that such person is so suffering.

Upon the certificate of said State Health Officer and county health officer as herein provided for, the county judge of the county where such leper may be, shall issue his warrant commanding the sheriff of such county to seize such leper and convey him to the Home for Lepers as herein provided. All necessary expenses for conveying such leper to the Home for Lepers shall be paid for by the county wherein said leper may be found.

Such person after having been conveyed to the Home for Lepers as herein provided for, shall be confined therein and cared for and treated at the expense of this State during life, unless sooner discharged on account of being cured. Provided, however, that any person found suffering from leprosy within this State who shall not have been a resident of this State for a period of one year, shall be returned to the State from whence he came, and the expense of such return shall be paid by the county in which such leper is found.

Sec. 5. As soon as such Home for Lepers is completed and ready for occupancy, and every two years thereafter, the Governor shall appoint a superintendent for the State Home for Lepers, who shall be a graduate of a reputable school of medicine, who shall be authorized to practice medicine within this State, and he shall receive a salary of $3000 per annum; said superintendent shall hold office for two years after his appointment and until his successor qualifies; which superintendent shall employ such nurses, assistants and servants as shall be necessary, and shall pay for same such salaries as may be fixed by such superintendent and approved by the Governor; provided, that said superintendent shall live at said State Home for Lepers and be in active management and control of said home, subject to the limitations of this act.

Sec. 6. All payments of money necessary under the provisions of Section 5 of this act shall be made by warrant on the State Treasury drawn by the Comptroller, based upon vouchers signed by the superintendent of the Home for Lepers and approved by the Governor.

Sec. 7. Any person within this State who shall knowingly harbor or conceal any leper shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less $50 and not more than $500 for every day of such concealment.

Sec. 8. There is hereby appropriated from the general revenue of this State the sum of $40,000, or as much thereof as may be necessary, for the purpose of carrying into effect this act, and to purchase such site and erect and equip such buildings as herein provided for, and for the maintenance of such institution for the fiscal years ending August 31, 1910, and August 31, 1911.

Sec. 9. The fact that there is now a number of cases of leprosy within this State, and that same for all time has been considered to be a pestilential and loathsome disease, and the further fact there now exists no means for isolating and caring for persons suffering with the disease of leprosy, creates an emergency and an imperative public necessity requiring that the constitutional requirement that a bill be read on three several days in each house be suspended, and that this act take effect from and after its passage, and it is so enacted.

Committee Room,
Austin, Texas, April 10, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Enrolled Bills have carefully examined and compared Senate bill No. 65, and find it correctly enrolled, and have this day, at 10:30 o'clock a. m., presented same to the Governor for his approval.

TERRELL of McLennan, Chairman.

Following is the enrolled bill in full:

S. B. No. 65. By Alexander.

An Act to amend Articles 3388 and 3389, Title 69, Revised Civil Statutes of the State of Texas, 1895, prescribing the form of ballot to be used in local option elections, and making the general election law control in such local option elections whenever applicable, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That Articles 3388 and 3389, Title 69, Revised Civil Statutes of the State of Texas, 1895, be so amended as to hereafter read as follows:

"Article 3388. At said election the vote shall be by official ballot, which shall have printed or written at the top thereof in plain letters the words "Official Ballot." Said ballot shall have also written or printed thereon the words "For Prohibition" and the words "Against Prohibition," and the clerk of the county court shall furnish the presiding officer of each voting box within the proposed limits with a number of such ballots to be not less than twice the number of qualified voters at such voting boxes, and the presiding officer of each such voting box shall write his name on the back of each ballot before delivering the same to the voter, and the person offering to vote at such election shall, at the time he offers to vote, be furnished by such presiding officer with one such ballot, and no voter shall be permitted to depart with such ballot and shall not be assisted in voting by any person except such presiding officer or by some officer assisting in the holding of such election under the direction of such presiding officer, when requested to do so by such voter.

"Those who favor the prohibition of the sale of intoxicating liquors within the proposed limits shall erase the words "Against Prohibition" by making a pencil mark through same, and those who oppose it shall erase the words "For Prohibition" by making a pencil mark through same. No ballot shall be received or counted by the officers of such election that is not an official ballot, and that has not the name of the presiding officer of such election written thereon in the handwriting of such presiding officer, as required by this act."

"Article 3389. The officers holding said election shall in all respects not herein specified conform to the general election laws now in force regulating elections, and after the polls are closed shall proceed to count the votes, and within ten days thereafter make due report of said election to the aforesaid court.

"The general election law passed at the First Called Session of the Twenty-ninth Legislature, known as Chapter 11, page 520 of the General Laws of the Twenty-ninth Legislature, as amended by the acts of the Thirtieth Legislature, shall govern in all respects as to the qualifications of the electors, the method of holding such elections and in all other respects whenever said general law does not conflict with this title and whenever said general law can be made applicable to elections held under this title."

Sec. 2. The fact that local option elections are being frequently held in this State, and that there is no official ballot provided by law to be used at such elections creates an emergency and an imperative public necessity for the suspension of the constitutional rule requiring bills to be read on three several days, and that this act shall be in force from and after its passage, and it is so enacted.

Committee Room,
Austin, Texas, April 11, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Enrolled Bills have carefully examined and compared Senate bill No. 12, and find it correctly enrolled, and have this day, at 11 o'clock p. m., presented same to the Governor for his approval.

TERRELL of McLennan, Chairman.

Following is the enrolled bill in full:

S. B. No. 12.

An Act providing for the appointment of official stenographers for district and county courts and county courts at law by the judges thereof, and prescribing their qualifications and duties, and providing for their compensation, and prescribing the time and method of making up and filing statements of facts and bills of exception in cases tried in such courts, and repealing Chapter 24 of the Acts of the First Called Session of the Thirtieth Legislature of Texas, and all other laws and parts of laws in conflict herewith, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. For the purpose of preserving a record in all cases for the information of the court, jury and parties, the judges of the district courts in all judicial districts of this State composed of only one county, or of only a portion of one county and of all other district courts sitting in the same counties therewith may appoint official shorthand reporters for such courts, who shall be well skilled in their profession, who shall be sworn officers of the courts,

and shall hold their office during the pleasure of the court. In all other judicial districts the district judges thereof may appoint official shorthand reporters if in their judgment such appointment is necessary, and in the event of such appointment the terms of this act shall apply.

Sec. 2. Before any person is appointed an official shorthand reporter under the provisions of this act he shall be examined as to his competency by a committee to be composed of at least three members of the bar practicing in said court, such committee to be appointed by the judge thereof. The test of competency of any applicant for the position of official shorthand reporter shall be as follows: The applicant shall write in the presence of such committee at the rate of at least 130 words per minute for five consecutive minutes from questions and answers not previously written by him, and in computing the number of words written the words "Questions" and "Answers" appearing in the official shorthand reporter's transcript shall not be counted, and shall transcribe the same with accuracy. If the applicant passes this test satisfactorily a majority of the committee shall furnish him with a certificate of that fact, which shall be filed among the records of the court, and shall be recorded by the clerk of the court in the minutes thereof. Upon the occasion of subsequent appointments the presentation of a certified transcript from the clerk of the court of the certificate above mentioned shall be taken as prima facie evidence of the applicant's competency; provided, however, that if the applicant shall have been an official stenographer of any district court of this State for not less than two years prior to the filing of his application for said appointment, then such examination by said committee, as herein provided, shall not be necessary.

Sec. 3. Before any person shall assume the duties of official shorthand reporter under the provisions of this act, he shall, in addition to the oath required of officers by the Constitution, subscribe to an oath, to be administered to him by the clerk of any district court, to the effect that he will well and truly and in an impartial manner keep a correct record of all evidence offered in any case which may be reported by him, together with the objections and exceptions thereto which may be interposed by the parties to such suit, and the rulings and remarks of the court in passing on the admissibility of such testimony.

Sec. 4. It shall be the duty of the official shorthand reporter to attend all sessions of the court; to take full shorthand notes of all oral testimony offered in every case tried in said court, together with all objections to the admissibility of testimony, the rulings and remarks of the court thereof, and all exceptions to such rulings. If during the trial of any cause, either party thereto or his attorney, shall desire to have the evidence already adduced upon the trial, or any part thereof, read over to him he shall request such official shorthand reporter to read the same from his notes, and it shall be the duty of such reporter to comply with such request, and in case he shall fail or refuse so to do, he shall be removed from his official position as court reporter, in case it shall be found by a committee of three disinterested practicing attorneys of the county wherein such failure or refusal occurred, to be appointed by the court, that such failure or refusal was intentional and without justification; to preserve all shorthand notes taken in said court for future use or reference for at least one year, and to furnish to any person a transcript in question-and-answer form of all such evidence or other proceedings, or any portion thereof, upon the payment to him of the compensation hereinafter provided.

Sec. 5. In case an appeal is taken from the judgment rendered in any case, the official shorthand reporter shall transcribe the testimony and other proceedings recorded by him in said case in the form of questions and answers, provided the same is requested by either party to the suit, certifying that such transcript is true and correct, and shall file the same in the office of the clerk of the court within such reasonable time as may be fixed by written order of the court. Said transcript shall be made in duplicate, to be paid for by the party ordering the same, on delivery, and the amount so paid shall be taxed as costs.

Sec. 6. Upon the filing in the office of the clerk of the court by the official shorthand reporter of his transcript as provided in Section 5 of this act, the party appealing shall prepare or cause to be prepared a statement of facts in duplicate, which shall consist of the evidence adduced upon the trial, both oral and by deposition, stated in a succinct manner and without unnecessary repetition, together with copies of such documents, sketches, maps and other matters as were used in evidence. It shall not

be necessary to copy said statement of facts in the transcript of the clerk on appeal, but the same shall when agreed to by the parties and approved by the judge, or in the event of a failure of the parties to agree and a statement of facts is prepared and certified by the judge trying the case, be filed in duplicate with the clerk of the court and the original thereof shall be sent up as a part of the record in the cause on appeal. Provided, however, that the official shorthand reporter shall, when requested by the party appealing, prepare under the direction of the party appealing, a statement of facts in narrative form, in duplicate, and deliver same to the party appealing, for which said statement of facts he shall be paid the sum of 10 cents per folio of 100 words for the original copy, and no charge shall be made for the duplicate copy, provided such amount shall not be taxed as costs in the case, if a transcript of the testimony in the form of questions and answers has been theretofore filed with the clerk and taxed as costs.

Sec. 7. When an appeal is taken from the judgment rendered in any cause in any district court or county court, the parties to the suit shall be entitled to and they are hereby granted thirty days after the day of adjournment of court in which to prepare and file a statement of facts and bills of exception; and upon good cause shown the judge trying the cause may extend the time in which to file a statement of facts and bills of exception. Provided, that the court trying such cause shall have power in term time or in vacation, upon the application of either party, for good cause, to extend the several times as hereinbefore provided for the preparation and filing of the statement of facts and bills of exception, but the same shall not be so extended so as to delay the filing of the statement of facts, together with the transcript of the record, in the appellate court within the time prescribed by law, and when the parties fail to agree upon a statement of facts, and that duty devolves upon the court, the court shall have such time in which to do so, after the expiration of the thirty days as hereinbefore provided, as the court may deem necessary, but the court, in such case shall not postpone the preparation and filing of such statement of facts and bills of exceptions so as to delay the filing of same, together with a transcript of the record in the appellate court within the time prescribed by law. Provided, if the term of said court may by law continue more than eight weeks, said statement of facts and bills of exception shall be filed within thirty days after final judgment shall be rendered unless the court shall by order entered of record in said cause extend the time for filing such statement, and bills of exception.

Sec. 8. The official shorthand reporter shall receive a per diem compensation of $5.00 for each and every day he shall be in the actual discharge of his duties in reporting cases in the court for which he is appointed, or in performing service under the actual directions of the judge of such court, upon work by such judge deemed necessary. Such compensation shall be paid monthly by the commissioners court of the county in which said court sits, out of the general fund of the county, upon the certificate of the district judge. He shall also receive from persons ordering transcripts of his notes the sum of 10 cents per folio of 100 words; provided, further, however, that if, in any district, the said official shorthand reporter shall, within the judgment of the court, have rendered more services to the court in the discharge of his duties than the terms of this bill shall provide for, then, and in that event the district judge shall certify to the commissioners court of each county in his district, six months after the taking effect of this act, and at the end of every six months thereafter, whether or not in his judgment the compensation is commensurate with the services performed, and if not, that the certificate of said judge shall state the amount that in his judgment the said official shorthand reporter should receive from each of the counties in the district, and same shall be a claim against the county, to be allowed or rejected by the commissioners court as other claims against the counties. Provided, that when any criminal case is appealed and the defendant is not able to pay for a statement of facts, or to give security therefor, he may make affidavit of such facts, and upon the making and filing of such affidavit the court shall order the stenographer to make such statement of facts in duplicate and deliver them as herein provided in civil cases, but the stenographer shall receive no pay for same, provided that should any such affidavit so made by such defendant be false he shall be prosecuted and punished as is now provided by law for making false affidavits.

In any civil case where the appellant or plaintiff in error has made the proof

required to appeal his case without bond, such appellant or plaintiff in error may make affidavit of such facts and upon the making and filing of such affidavit the court shall order the stenographer to make such statement of facts in duplicate and deliver them as herein provided in other cases, but the stenographer shall receive no pay for same, provided that should any such affidavit so made by such appellant or plaintiff in error be false he shall be prosecuted and punished as is now provided by law for making false affidavits.

Sec. 9. At the request of any person it shall be the duty of the official shorthand reporter to make a transcript in typewriting of all the evidence and other proceedings, or any portion thereof, either in question and answer form or in narrative form, in any case, which transcript shall be paid for at the rate of 10 cents per folio of 100 words and be the property of the person ordering the same.

Sec. 10. Hereafter the clerks of all courts having official shorthand reporters as provided for in this act, shall tax as costs in each civil case now or hereafter pending in such courts, except suits for the collection of delinquent taxes, and except suits which are not contested, a stenographer's fee of $3.00, which shall be paid as other costs in the case, and which shall be paid by said clerk, when collected, into the general fund of the county in which said court sits, except cases in which the district court has not original jurisdiction.

Sec. 11. The official shorthand reporters may, with the consent of the court, appoint one or more deputies when necessary to assist him in the discharge of his duties; provided, however, that before any such deputy shall enter upon the discharge of his duties as official shorthand reporter he shall subscribe to the same oath hereinbefore provided for for the official shorthand reporter, and shall also be required to stand such examination as to his proficiency as may be required by the court.

Sec. 12. It shall be the duty of each official shorthand reporter to file with the district clerk of each county of his district annually upon the first Monday in January an itemized statement, verified by affidavit, showing all sums collected by him as per diem or other compensation during the preceding year, giving the name of the person paying each sum and the date of payment of same.

Sec. 13. Whenever either party to a civil cause pending in the county court or county court at law shall apply therefor, the judge of the court shall appoint a competent stenographer to report the oral testimony given in such cause. Such stenographer shall take the oath herein prescribed, and shall receive such compensation as the court may fix, to be not less than $5.00 per day, which shall be taxed and collected as costs. The provisions of this act with respect to the preparation of the statement of facts, the time to be allowed therefor, and for the presentation to the opposite party, and the approving and filing thereof by the court shall apply to all statements of facts in civil causes tried in the county court and county court at law; and all other provisions of law governing statements of facts and bills of exception to be filed in district courts and the use of the same on appeal shall apply in civil causes tried in the county courts and county courts at law.

Sec. 14. That Chapter 24, page 509, Acts of the First Called Session of the Thirtieth Legislature of the State of Texas, providing for the appointment of court stenographers, prescribing their duties and regulating their charges, and all other laws or parts of laws in conflict with this act, be and the same are hereby expressly repealed; provided, however, that nothing in this act shall be so construed as to prevent parties from preparing statements of facts on appeal independent of the transcript of the notes of the official shorthand reporter. Provided, the provisions of this act as to preparing and filing statement of facts and bills of exception shall apply only to cases hereafter tried. as to cases heretofore tried the law now in force shall govern.

Sec. 15. In the trial of all criminal cases in the district court in which the defendant is charged with a felony, the official shorthand reporter shall keep an accurate stenographic record of all the proceedings of such trial in like manner as is provided for in civil cases, and should an appeal be prosecuted in any judgment of conviction whenever the State and defendant can not agree as to the testimony of any witness, then and in such event so much of the transcript of the official shorthand reporter's report with reference to such disputed fact or facts shall be inserted in the statement of facts as is necessary to show what witnesses testified to in regard to the same, and constitute a part of the statement of facts, and the same rule shall apply in the preparation of

bills of exceptions; provided, that such stenographer's report, when carried into the statement of facts or bills of exceptions, shall be condensed so as not to contain the questions and answers, except where, in the opinion of the judge, such questions and answers may be necessary in order to elucidate the fact or question involved; provided, that in all cases where the court is required to and does appoint an attorney to represent the defendant in a criminal action, that the official shorthand reporter shall be required to furnish the attorney for the said defendant, if convicted, and where an appeal is prosecuted, with a transcript of his notes, for which said service he shall be paid by the State of Texas upon the certificate of the district judge, one-half of the rate provided for herein in civil cases.

Sec. 16. The fact that the present law relating to the appointment of official stenographers does not provide a proper standard of competency and does not provide a sufficient length of time in which to prepare and file statements of facts and bills of exception in cases on appeal, thereby causing confusion and dissatisfaction, creates an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect from and after its passage, and it is so enacted.

Committee Room,
Austin, Texas, April 11, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Enrolled Bills have carefully examined and compared Senate bill No. 29, and find it correctly enrolled, and have this day, at 10:30 o'clock a. m., presented same to the Governor for his approval.

TERRELL of McLennan, Chairman.

Following is the enrolled bill in full:

S. B. No. 29. By Ward.

An Act to amend Subdivision 3 of Section 1 of Chapter 107 of the Acts of the Regular Session of the Thirtieth Legislature, and Section 2 of said act pertaining to Article 2989, Title 56 of the Revised Civil Statutes, with respect to the granting of injunctions, and providing for appeals from the orders and decrees of district and county courts, either granting or refusing temporary injunctions and fixing effects of such appeals, and repealing all laws in conflict herewith, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That Article 2989 of the Revised Civil Statutes of Texas be amended so as to read as follows:

"Article 2989. Judges of the district and county courts shall either in term time or vacation, hear and determine all applications, and may grant writs of injunctions returnable to said courts in the following cases:

"(1) Where it shall appear that the party applying for such writ is entitled to the relief demanded, and such relief or any part thereof requires the restraint of some act prejudicial to the applicant.

"(2) Where, pending litigation, it shall be made to appear that a party is doing some act respecting the subject of litigation, or threatens, or is about to do some act, or is procuring or suffering the same to be done in violation of the rights of the applicant which act would tend to render judgment ineffectual.

"(3) In all cases where the applicant for such writ may show himself entitled thereto under the principles of equity, and as provided by statutes in all other acts of this State providing for the granting of injunctions, or where a cloud would be put on the title of real estate being sold under an execution against a person, partnership or corporation, having no interest in such real estate subject to the execution at the time of the sale, or irreparable injury to real estate or personal property is threatened, irrespective of any legal remedy at law. Provided, that no district judge shall have the power to grant any writ of injunction returnable to any other court than his own, unless the application or petition therefor shall state that the resident judge, that is, the judge in whose district the suit is, or is to be brought, is absent from his district, or is sick and unable to hear or act upon the application, or is inaccessible, or unless such resident judge shall have refused to hear or act upon such application for the writ of injunction, or unless such judge is disqualified to hear or act upon the application; and the facts of, and relating to, such judge's absence, or sickness and inability, or disqualification, or inaccessibility, or refusal to act must be fully set out in the application for the writ, or in an affidavit accompanying said application; and in case of such absence, or sickness and inability, or inaccessibility, or disqualification of the resident judge, or in

case of his refusal to hear, or act upon, such application, no district judge shall have the power to grant the writ when the application therefor shall have once been acted upon by a district judge of the State; provided, that when the judge applied to shall have refused to hear or act upon such application, he shall endorse thereon, or annex thereto his refusal to hear or act upon such application, together with his reason therefor; provided, that nothing herein shall apply to the granting of writs of injunction by non-resident judges to stay execution or to restrain foreclosures, or to restrain sales under deeds of trust, or to restrain trespassers, or to restrain the removal of property, or to restrain acts injurious to, or impairing riparian or easement rights where proof is made to the satisfaction of such non-resident judge that it is impracticable for the applicant to reach the resident judge and procure his action in time to effectuate the purpose of the application.

"A resident judge shall be deemed inaccessible, within the meaning of this act, when by the ordinary and available means and modes of travel and communication, he can not be reached in sufficient time to effectuate the purpose of the writ of injunction sought.

"Whenever an application or petition for the writ of injunction shall be made to a non-resident judge upon the ground that the resident judge is inaccessible as hereinbefore defined, the party making such application or his attorney, shall make and file with the application, as a part thereof or annexed thereto, an affidavit setting out fully the facts showing that the resident judge is inaccessible, and the efforts made by the applicant to reach and communicate with said resident judge, and the result of said efforts in that behalf. And unless it appears from said affidavit that the applicant has made a fair and reasonable effort to procure the action of the resident judge upon said application, non-resident judge shall have the power to hear said application upon the ground of inaccessibility of the resident judge; and should any non-resident judge hear said application upon said ground of inaccessibility of the resident judge, and should grant the writ of injunction prayed for, said injunction so granted shall be dissolved upon its being shown that the petitioner has not first made reasonable effort to procure a hearing upon said application before the resident judge. That Section 2 of Chapter 107 of the Acts of the Regular Session of the Thirtieth Legislature shall be amended so as hereafter to read as follows:"

Sec. 2. Any party or parties to any civil suit wherein a temporary injunction may be granted, refused or dissolved under any of the provisions of this title in term time or in vacation, may appeal from the order of judgment granting, refusing or dissolving such injunction to the Court of Civil Appeals having jurisdiction of the case; but such appeal shall not have the effect to suspend the enforcement of the order appealed from, unless it shall be so ordered by the court or judge who enters the order; provided, the transcript in such case shall be filed with the clerk of the Court of Civil Appeals not later than fifteen days after the entry of record of such order or judgment granting, refusing or dissolving such injunction.

Sec. 3. It shall not be necessary to brief such case in the Court of Civil Appeals or Supreme Court, and the case may be heard in the said courts on the bill and answer, and such affidavits and evidence as may have been admitted by the judge granting, refusing or dissolving such injunction; provided, the appellant may file a brief in the Court of Civil Appeals or Supreme Court upon the furnishing the appellee with a copy thereof not later than two days before the case is called for submission in such court, and the appellee shall have until the day the case is called for submission to answer such brief.

Sec. 4. Such case shall be advanced in the Court of Civil Appeals or Supreme Court on motion of either party, and shall have priority over other cases pending in such courts.

Sec. 5. That all laws and parts of laws in conflict herewith are hereby repealed.

Sec. 6. The fact that there is now no well defined and settled statutes on law and equity to properly prevent a cloud on title of real estate and all other property exempt from force sale, under and by virtue of the exemption laws of this State, being sold under an execution against a person, partnership or corporation having no interest in such real estate, or all other property so exempt at the time of the sale, without resorting to the legal remedy at law, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and the same is hereby suspended, and that this act

take effect and be in force from and after its passage, and it is so enacted.

Committee Room,
Austin, Texas, April 11, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Enrolled Bills have carefully examined and compared Senate bill No. 15, and find it correctly enrolled, and have this day, at 10:30 o'clock a. m., presented same to the Governor for his approval.

TERRELL of McLennan, Chairman.

Following is the enrolled bill in full:

S. B. No. 15. By Alexander.

An Act to amend Chapter 22 of Title 39 of the Revised Civil Statutes of Texas of 1895, by amending Article 2125 of said chapter, relating to citations in the sale of land by executors or administrators of the estates of decedents, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That Article 2125 of Chapter 22, Title 39 of the Revised Civil Statutes of Texas of 1895 is so amended as to hereafter read as follows:

"Article 2125. Such citation shall be posted in the manner required for other citations for at least twenty days before the first day of the term of the court at which such application is to be heard; and shall be returned and the citation and return recorded in like manner as other citations and returns thereon."

Sec. 2. The fact that there is a conflict as to the time required for the posting of citations in the sale of land by administrators, executors and guardians, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and it is hereby suspended and this bill take effect and be in force from and after its passage, and it is so enacted.

Committee Room,
Austin, Texas, April 11, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Enrolled Bills have carefully examined and compared Senate bill No. 18, and find it correctly enrolled, and have this day, at 10:30 o'clock a. m., presented same to the Governor for his approval.

TERRELL of McLennan, Chairman.

Following is the enrolled bill in full:

S. B. No. 18. By Ward and Bryan.

An Act making an appropriation for the enforcing of any and all laws of the State of Texas, and for the purpose of paying any and all necessary expenses in bringing and prosecuting or paying expenses in prosecuting same, providing the manner of expending such appropriation, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. For the purpose of enforcing any and all laws of the State of Texas, and for the purpose of paying any and all necessary expenses in bringing suits or paying expenses in prosecuting same, there is hereby appropriated out of any money in the State Treasury, not otherwise appropriated, the sum of $25,000 or so much thereof as may be necessary, to be expended under the direction of the Attorney General by and with the approval of the Governor, and to be paid upon warrants drawn by the Comptroller of Public Accounts on vouchers approved by the Attorney General.

Sec. 2. The fact that adequate provision has not been made for the recovery of lands belonging to the public schools and other lands of the State of Texas and for the enforcement of the laws of this State concerning public lands, and the pendency of a great number of suits brought by the Attorney General for the recovery of many thousands of acres of land embraced by the terms of this act, which suits will come to trial in the near future, creates an emergency and an imperative public necessity requiring that the constitutional rule which provides that bills shall be read on three several days be suspended, and said rule is hereby suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Committee Room,
Austin, Texas, April 11, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Enrolled Bills have carefully examined and compared Senate bill No. 46, and find it correctly enrolled, and have this day, at 10:30 o'clock a. m., presented same to the Governor for his approval.

TERRELL of McLennan, Chairman.

Following is the enrolled bill in full:

S. B. No. 46. By Perkins et al.

An Act making it a felony to pursue the occupation or business of selling intoxicating liquors, except as permitted by law, in any territory in this State where the sale of intoxicating liquor has been prohibited by law; prescribing suitable punishment for the violation of this act; defining such business or pursuit and providing rules of evidence in prosecutions arising hereunder, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. If any person shall engage in or pursue the occupation or business of selling intoxicating liquor, except as permitted by law, in any county, justice precinct, city, town or subdivision of a county in which the sale of intoxicating liquor has been or shall hereafter be prohibited under the laws of this State, he or she shall be punished by confinement in the penitentiary not less than two nor more than five years.

Sec. 2. In prosecutions under this act, where it is proven that there is posted up at the place where such intoxicating liquor is being sold, United States internal revenue liquor or malt license to any one, it shall be prima facie proof that the person to whom such license is issued is engaged in and is pursuing the business and occupation of selling intoxicating liquor within the meaning of this act.

Sec. 3. In order to constitute the engaging in or pursuing the occupation or business of selling intoxicating liquors within the meaning of this act, it shall be necessary for the State to prove in all prosecutions hereunder that the defendant made at least two sales of intoxicating liquor within three years next preceding the filing of the indictment.

Sec. 4. The inadequacy of the laws of this State to prohibit the unlawful sale of intoxicating liquors in the counties, justice precincts, cities, towns and other subdivisions of this State where the sale of intoxicating liquor has been prohibited by law, creates an emergency and an imperative public necessity demanding the suspension of the constitutional rule requiring bills to be read on three several days, and the rule is so suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Committee Room,
Austin, Texas, April 11, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Enrolled Bills have carefully examined and compared Senate bill No. 33, and find it correctly enrolled, and have this day, at 10:30 o'clock a. m., presented same to the Governor for his approval.

TERRELL of McLennan, Chairman.

Following is the enrolled bill in full:

S. B. No. 33. By Meachum.

An Act to amend Chapter 3 of Title 28 of the Revised Civil Statutes of the State of Texas, by adding thereto Article 1107a, empowering judges of the district court to act in vacation, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That Chapter 3 of Title 28 of the Revised Civil Statutes of the State of Texas be amended by adding thereto Article 1107a, to read as follows:

"Article 1107a. The judges of the district court may, in vacation, by consent of the parties, exercise all powers, make all orders, and perform all acts, as fully as in term time, except to enter final judgment in any suit; provided, that the judge may, by consent of the parties, try any case without a jury and enter final judgment, except in divorce cases. All such proceedings shall be conducted under the same rules as if done in term time, and the right of appeal and writ of error shall apply as if the acts had been done in term time."

Sec. 2. The fact that the final adjudication of many important matters is often delayed awaiting the regular term of court, and that many district judges in this State have sufficient time between the holding of different courts in their districts to hear, pass upon and determine important matters during vacation, thus relieving the crowded condition of the docket during the regular term, and preventing unnecessary delay in the administration of justice, creates an emergency and an imperative public necessity that the constitutional rule providing that bills be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Committee Room,
Austin, Texas, April 11, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Enrolled Bills have carefully examined and compared Senate bill No. 10, and find it correctly enrolled, and have this day, at 10:30 o'clock a. m., presented same to the Governor for his approval.

TERRELL of McLennan, Chairman.

Following is the enrolled bill in full:

S. B. No. 10. By Stokes, et al.

An Act to amend Article 1264 of the Revised Statutes of 1895, and to fix the time of filing an answer in all cases where the defendant is cited by publication, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That Article 1264 of the Revised Statutes of 1895 be so amended as hereafter to read as follows:

"In all cases in which services of citation have been made by publication the answer shall be filed on or before appearance day of the term to which said citation is returnable; provided, that in all cases wherein a dissolution of marriage is sought in which service of the citation has been made by publication the answer shall be filed on or before appearance day of the term next succeeding that to which such citation is returnable; provided, that the provisions of this act shall apply to no cases except that in which eight weeks' publication is required; and provided further, that said publication shall be made in the county in which the land is situated, provided there be a newspaper published in such county and if there be no newspaper published in said county then such publication shall be made in the county nearest to where said lands are situated."

Sec. 2. That all laws and parts of laws in conflict with this amendment be and the same are hereby repealed.

Sec. 3. The fact that there is now no adequate law to expedite the trial of cases in which service of citation is had by publication upon the defendants in such cases creates an emergency and imperative public necessity that the constitutional rule requiring bills be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Committee Room,
Austin, Texas, April 11, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Enrolled Bills have carefully examined and compared Senate bill No. 25, and find it correctly enrolled, and have this day, at 10:30 o'clock a. m., presented same to the Governor for his approval.

TERRELL of McLennan, Chairman.

Following is the enrolled bill in full:

S. B. No. 25.

An Act providing conditions upon which fire insurance companies shall transact business in this State, and providing for the regulation and control of rates of premium on fire insurance, and to prevent discrimination therein, and to create a Fire Insurance Rating Board, and to provide penalties for violations of this act, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. Every fire insurance company not organized under the laws of this State, hereafter granted a certificate of authority to transact business in this State, shall be deemed to have accepted such certificate and to transact business thereunder upon the condition that it consents to the terms and provisions of this act, and that it agrees to transact its business in this State subject thereto.

Sec. 2. Every fire insurance company organized under the laws of this State, hereafter granted a certificate of authority to transact business in this State, shall be deemed to have accepted such certificate and to transact business thereunder upon the condition that it consents to the terms and provisions of this act, and that it agrees to transact its business in this State subject thereto.

Sec. 3. There is hereby created a board to be known as the State Fire Rating Board, which shall be composed of the Commissioner of Insurance and Banking, who shall be chairman thereof, and one member to be appointed by the Governor, who shall be secretary thereof, and one additional member, who shall be appointed by the Governor upon the joint nomination and recommendation in writing of a majority of all the companies transacting the business of fire insurance in this State, provided that if the State representative or rep-

resentatives or executive officer of a majority of such companies shall fail to join in the nomination or recommendation of some citizen of this State for such appointment not later than ten days prior to the date when the same is required to be made, the Governor shall have the power to make such appointment regardless of such nomination or recommendation. The members of said board, other than the Commissioner of Insurance and Banking, shall each have had at least five years' practical experience in the making of fire insurance rates and inspection of risks, shall be appointed as herein provided within sixty days after this act takes effect for the term of two years and biennially thereafter, and they shall have the power to decide all questions required, authorized or permitted to be passed upon by said board upon which they shall agree, and in case of disagreement as to any such question, the decision of the Commissioner of Insurance and Banking thereon shall determine the action of the board. Said members of said board, other than the Commissioner of Insurance and Banking, shall each receive as compensation for their services the sum of $2500 per annum, and the Commissioner of Insurance and Banking shall receive as compensation or salary for his services under this act the sum of $500 per annum in addition to his compensation as now fixed by law.

Sec. 4. Every fire insurance company transacting business in this State shall, not later than January 1, 1910, after this act takes effect, file with the secretary of said board general basis schedules showing the rate on all classes of risks insurable by such company in this State, and all charges, credits, terms, privileges and conditions which in any wise affect such rates or the value of the insurance issued to the assured, and any one or more of such companies may employ for the making of such schedules and rates the services of such experts as they deem advisable for such purpose.

Sec. 5. No change shall be made in the schedules which have been filed in compliance with the requirements of this act except after thirty days notice to the secretary of said board, which notice shall plainly state the changes proposed to be made in the schedules thereunder in force and the time when such changes will go into effect; and such changes shall be shown by filing new schedules or shall be plainly indicated on the schedules in force at the time; provided, that said board may in its discretion and for good cause shown allow changes to be made upon notice for a shorter period than that specified herein either in particular instances or by general order applicable to special or peculiar circumstances or conditions.

Sec. 6. When said board shall determine that any rate made by any company in this State is excessive or unreasonably high, or that said rate is not adequate to the safety or soundness of the company granting the same, it is authorized to direct said company to publish and file a higher or lower rate as shall be commensurate with the character of the risk, but in every case the rate shall be reasonable. The State Fire Rating Board shall have the power at its discretion to have prepared and to publish for the information of the public, specific schedules of fire insurance rates which shall by said board be deemed reasonable, covering all fire insurance risks in the State, or in any locality thereof, and to fix the fee to be paid for copies of the same furnished to any person desiring such copies. Said board shall also have the power to alter, amend or revise such published specific schedules of reasonable rates, and to publish notice of such alteration, amendment or revision; provided, that nothing herein shall be construed to deny the right to any company to reduce its rates to conform with any lower rate, established by said board, applying to the same character of risks; provided, that said board shall never make a higher rate than the schedule published by said companies.

Sec. 7. No fire insurance company shall engage or participate in the insurance of any property located in this State unless the schedule of rates under which such property is insured has been filed in accordance with the provisions of this act; nor shall any fire insurance company knowingly write any insurance at a rate different than the rate named in the schedules, subject to the provisions of Section 6 hereof, or refund or remit in any manner or by any device any portion of the rates so established, or extend to any insured or other person any privileges, advantage, favor, inducement or concession except as is specified in such schedule.

Sec. 8. No fire insurance company, or officer, agent or representative thereof, shall enter into any contract of in-

surance on any property located in this State on which there has been no rate filed as provided for in this act, unless such company shall within thirty days after entering into such contract file with said board in such form or forms as shall be by it prescribed, a statement truly setting forth the description of such property, the rate thereon, and such other information as said board shall require. Such statement shall conform to the schedule provided for in this act, and when so filed shall constitute the local tariff rates of premium for said company.

Sec. 9. That all schedules and local tariffs filed in accordance with the provisions of this act, shall be open to the inspection of the public, and each local agent shall have and exhibit to the public copies thereof relative to all risks upon which he is authorized to write insurance.

Sec. 10. No fire insurance company shall directly or indirectly by any special rate, tariff, rebate, drawback, or other device, charge, demand, collect or receive from any person or persons a greater or less or different compensation for the insurance of any property located in this State than it charges, demands, collects or receives from any other person or persons for like insurance on risks of a like kind and hazard under similar circumstances and conditions in this State; and any fire insurance company violating any of the provisions of this section shall be deemed guilty of unjust discrimination, which shall be unlawful.

Sec. 11. The Commissioner of Insurance and Banking, if he shall find that any insurance company or any officer, agent or representative thereof has violated any of the provisions of this act, may at his discretion revoke the certificate of authority of such company, officer, agent or representative, but such revocation of any certificate shall in no manner affect the liability of such company, officer, agent or representative to to the infliction of any other penalty provided by this act, and provided, that any action, decision or determination of the Commissioner of Insurance and Banking or of the State Fire Rating Board, shall be subject to review of the courts of this State, as herein provided.

Sec. 12. The State Fire Rating Board shall not make any regulations or order without giving all insurance companies concerned reasonable notice thereof, and an opportunity to appear to be heard in respect to same, and if any insurance company or any other person or city or municipality which shall be interested in any such order shall be dissatisfied with any regulation, order or rate adopted by said board, such person or municipality or their representatives shall have the right within thirty days after the making of such regulation, order or rate to bring an action against said board in any district court of the State of Texas to have such regulation, order or rate vacated or modified, and shall set forth in the petition therein the particular ground or grounds of objection to any or all of them. In any such suit the issue shall be formed and the controversy tried and determined as in other civil cases; and the court may set aside, vacate or annul one or more or any part of any of the regulations, orders or rates adopted or fixed by said board which shall be found by the court to be unreasonable, unjust, excessive or inadequate to compensate the company writing insurance thereon for the risk assumed by it, without disturbing others. No injunction, interlocutory order or decree suspending or restraining directly or indirectly the enforcement of any order of said board shall be granted; provided, that the court may permit any company complaining of any order, regulation or rate made by said board to write insurance at any rates which obtained prior to the making of such order, regulation or rate complained of, upon condition that the difference between the rate complained of and the rate at which it is permitted to write insurance shall be deposited with the Commissioner of Insurance and Banking, and upon final determination of the suit shall be paid by him to the insurance company if the court shall find it entitled to the same, or to the holders of policies written by said company after the rate complained of is ordered, as the court may deem just and equitable. Whenever any action shall be brought on any insurance company under the provisions of this section within said period of thirty days, no penalties or forfeitures shall attach or accrue on account of the failure of the plaintiff to comply with the order sought to be vacated or modified in such action until the final determination of the same. Either party to any such action, if dissatisfied with the judgment or decree of said court, may appeal therefrom as in other civil cases.

No action shall be brought in any court of the United States to set aside any order made by said board under the provisions of this act until all of the remedies provided for herein shall have been exhausted by the party complaining. If any fire insurance company organized under the laws of this State or authorized to transact business in this State shall violate any of the provisions of this section, the Commissioner of Insurance and Banking shall cancel its certificate of authority to transact business in this State.

Sec. 13. Any fire insurance company, director or officer thereof, or any agent or person acting for or employed by any such company, who, alone or in conjunction with any corporation, company or person, shall wilfully do or cause to be done, or shall wilfully suffer or permit to be done, any act, matter or thing prohibited or declared to be unlawful by this act, or who shall wilfully omit or fail to do any act, matter or thing required to be done by this act, or shall cause or wilfully suffer or permit any act, matter or thing directed by this act, not to be done, or shall be guilty of any wilful infractions of this act, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished by a fine not to exceed $100 for each offense, provided that if the offense for which any person shall be convicted, as aforesaid, shall be an unlawful discrimination, such person shall be punished by a fine not exceeding $100, or by imprisonment in the county jail for a term not exceeding 90 days, or by both such fine and imprisonment.

Sec. 14. No person shall be excused from giving testimony or producing evidence when legally called upon so to do at the trial of any other person charged with violating any of the provisions of this act on the ground that it may incriminate him under the laws of this State, but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may so testify or produce evidence under the authority of this act, except for perjury in so testifying.

Sec. 15. No regulation, order or rate made by the State Fire Rating Board, under the provisions of this act, shall be binding upon any fire insurance company not organized under the laws of this State, until such company shall have obtained a certificate of authority to transact business in this State, after this act takes effect, unless such company shall file with said board a certified copy of a resolution, duly adopted by its board of directors, accepting and agreeing to be bound by the terms of this act until the expiration of its certificate of authority in force at the time this act shall take effect.

Sec. 16. The salaries of the members of said State Fire Rating Board, and the compensation of the necessary clerical and other assistants employed by said board, and any necessary traveling or other expenses incurred by said board in carrying out the provisions of this act, shall be paid by warrants drawn by the Comptroller upon the State Treasurer, upon the order of said board, approved by the Commissioner of Insurance and Banking; provided, that the total amount of all such salaries and expenses shall not exceed the sum of $15,000 during any one year after this act takes effect.

Not later than March 15, after this act shall take effect, and annually thereafter, it shall be the duty of the Commissioner of Insurance and Banking, for the purpose of reimbursing the State for the amount to be so expended, during the current year, in carrying out the provisions of this act, to collect from each fire insurance company which transacted business in this State during the preceding calendar year or any portion thereof, the proportion of said sum of $15,000 which the gross premiums collected by such company during such year from persons or upon property located in this State bears to the aggregate amount of such gross premiums so collected during such year by all fire insurance companies transacting business in this State. Provided, that in computing such gross premiums receipts there shall be deducted therefrom the amount paid out for reinsurance and for returned premiums on cancelled risks. If at the end of any year after this act shall take effect it shall be found that the aggregate amount expended in carrying out the provisions of this act during such year has been less than $15,000, the amount remaining unexpended shall be applied in reduction of the amount to be collected from said companies for the succeeding year.

The amount due under the provisions of this section by each company shall be certified by the Commissioner of Insurance and Banking, and he shall revoke the certificate of authority of any

company which shall fail to pay the same within thirty days after the receipt of such certificate. Provided, that the collection from fire insurance companies provided for in this section shall not be made for any year during which any such company shall be liable under the laws of this State, to the payment of an occupation tax at the rate of not less than two and one-half per cent of the gross premiums received, less deductions for reinsurance and returned premiums on cancelled risks.

Sec. 17. This act shall not apply to mutual or profit sharing fire insurance companies incorporated under the laws of this State, nor to purely co-operative inter-insurance and reciprocal exchanges carried on by the members thereof solely for the protection of their own property and not for profit.

Sec. 18. The fact that there is now no law in the State prohibiting unjust discrimination in the collection of fire insurance rates as between citizens of this State constitutes an emergency and an imperative public necessity requiring the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Committee Room,
Austin, Texas, April 10, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Enrolled Bills have carefuly examined and compared Senate bill No. 20, and find it correctly enrolled, and have this day at 10:30 o'clock a. m., presented same to the Governor for his approval.

TERRELL of McLennan, Chairman.

Following is the enrolled bill in full:

S. B. No. 20. By Hume.

An Act to validate sales of real estate within this State, heretofore made by foreign executors of wills probated in any of the States of the United States.

Be it enacted by the Legislature of the State of Texas:

Section 1. That all sales of real estate within this State, which have been heretofore made by executors of wills, which, prior to such sales, had been probated according to the laws of another State of the United States, having jurisdiction, and which wills possessed the requisites to pass title to real estate required by the Statutes of this State, where such wills conferred upon the executors the power to sell the real estate so sold, independent of the probate court, and where such sales would have been valid and effectual to pass the title to such real estate, had the wills been probated in this State, and where the will has been filed and recorded as required by Article 5353 of the Revised Statutes of 1895; and provided, this act shall not validate any sale where a will has been fraudently probated, be and the same are hereby validated; provided, however, that the validation of such sales shall not defeat the rights of creditors of the testators of such will, nor affect the title of purchasers for the value from their heirs or devisees of the testators of such wills, where such purchases were made prior to the enactment hereof, and where, in such will, testament or testamentary instrument of any character, executors or trustees are named with powers conferred upon them sufficient to make them independent executors under the laws of this State, including power to sell real estate, then the filing of the will, as provided in Article 5353, Revised Statutes of 1895, shall be sufficient to authorize such executor or trustee to sell any real estate belonging to the estate of such testator and situated in this State, without the necessity of an ancilliary administration in this State.

Committee Room,
Austin, Texas, April 9, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Enrolled Bills have carefuly examined and compared Senate bill No. 74, and find it correctly enrolled, and have this day at 10:30 o'clock a. m., presented same to the Governor for his approval.

TERRELL of McLennan, Chairman.

Following is the enrolled bill in full:

S. B. No. 74. By Stokes et al.

An Act to make it the duty of the Commissioner of Agricuture to inquire into the present system of irrigation as applied to the rice industry and other products, the character of rates and contracts, used on irrigating canals, to make public his report from time to time and to transmit same to the Governor and the Legislature, giving him power and authority to employ an engineer and expert to assist him when necessary in said work, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. It shall be the duty of the Commissioner of Agriculture to prepare and make public, reports on the present system of irrigation now in operation in this State; the cost of maintenace and operation of same, the character and kind of irrigation plants which result in the greater saving to the users of water, the class and character of water contracts entered into by the various canal companies; he shall also inquire into the reasonableness and fairness of rates being charged for water by the various canal companies in this State, and from time to time shall make public the result of his inquiries; he shall collect and publish statistics and other information regarding the irrigation of rice and other crops as may be of benefit in developing and collaborating a more efficient system of laws safeguarding and defining the rights of users and sellers of water for irrigating purposes; and he shall make up and file an annual report on same with such recommendations he may deem beneficial to the industry, which report shall be filed with the Governor, and transmitted to the Legislature.

Sec. 2. The Commissioner of Agriculture is hereby empowered and authorized to employ a competent engineer and expert, possessing a practical knowledge of the application of irrigation to the raising of rice and other crops, for the purpose of assisting him in performing the duties required of him in Section 1 of this act.

Sec. 3. The fact that there is now no means of collecting data on canal rates and that there is no member of the Department of Agriculture qualified to perform the duties above mentioned, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in both houses be suspended, and this rule is hereby suspended and that this act shall take effect and be in force from and after its passage, and it is so enacted.

Committee Room,
Austin, Texas, April 11, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Enrolled Bills have carefully examined and compared Senate bill No. 22, and find it correctly enrolled, and have this day, at 10:30 o'clock a. m., presented same to the Governor for his approval.

TERRELL of McLennan, Chairman.

Following is the enrolled bill in full:

Senate Bill No. 22, By Cofer.

An Act to amend Article 2256, Title 39, Chapter 31 of the Revised Civil Statutes of 1895, relating to appeals to the district court in probate cases, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That Article 2256, Chapter 31, Title 39 of the Revised Civil Statutes of 1895 be so amended as to hereafter read as follows:

"Article 2256. He shall within fifteen days after such decision, order, judgment or decree shall have been rendered, file with the county clerk a bond with two or more good and sufficient sureties, payable to the county judge in an amount to be fixed by the county judge, and to be approved by the clerk, conditioned that the appellant shall prosecute said appeal to effect, and perform the decision, order, decree or judgment which the district court shall make thereon, in case the cause shall be decided against him."

Sec. 2. The uncertainty as to the amount of the bond that should be given in appeals in probate cases, and the near approach of the close of the called session of the Legislature, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this bill take effect and be in force from and after its passage, and it is so enacted.

Committee Room,
Austin, Texas, April 11, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Enrolled Bills have carefully examined and compared Senate bill No. 72, and find it correctly enrolled, and have this day, at 10:30 o'clock a. m., presented same to the Governor for his approval.

TERRELL of McLennan, Chairman.

Following is the enrolled bill in full:

S. B. No. 72. By Weinert.

An Act to amend Chapter 12, Title 51 of the Revised Civil Statutes of Texas, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That Chapter 12, Title 51

be amended by adding thereto Article 2690a, to read as follows:

"Article 2690a. Provided, that this chapter shall not apply to estates of less than $1000 unless required by the probate judge or by order of the probate judge on application by some one interested in the estate; and provided that if it is shown to the satisfaction of the probate judge that said report was not essential or necessary to the protection of the ward's interest, then and in that event, he shall tax the cost of such report and court proceedings thereon to the party demanding same."

Sec. 2. The fact that there is now no statute properly preventing the consuming of small estates by court costs, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and the same is hereby suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Committee Room,
Austin, Texas, April 11, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Enrolled Bills have carefully examined and compared Senate bill No. 26, and find it correctly enrolled, and have this day, at 6 o'clock p. m., presented same to the Governor for his approval.

TERRELL of McLennan, Chairman.

Following is the enrolled bill in full:

S. B. No. 26.

An Act to amend Sections 6 and 11 of Chapter 94 of the Acts of the Twenty-eighth Legislature, page 119, entitled "An Act to define, prohibit and declare illegal trusts, monopolies and conspiracies in restraint of trade, and to prescribe penalties for forming or being connected with such trusts, monopolies and conspiracies, and to provide for the suppression of the same, and to promote free competition in the State of Texas, and to repeal all laws in conflict therewith; providing venue; providing punishment for violations thereof, fixing compensation;" and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That Sections 6 and 11, Chapter 94 of the Acts of the Twenty-eighth Legislature, page 119, entitled "An Act to define, prohibit and declare illegal trusts, monopolies and conspiracies in restraint of trade, and to prescribe penalties for forming or being connected with trusts, monopolies and conspiracies, and to provide for the suppression of the same, and to promote free competition in the State of Texas, and to repeal all laws in conflict therewith," be and the same are hereby amended so as to hereafter read as follows:

"Section 6. For a violation of any of the provisions of this act, or any anti-trust laws of this State, by any corporation, it shall be the duty of the Attorney General, upon his motion, and without leave or order of any judge or court, to institute suit or quo warranto proceedings in Travis county, or at the county seat of any county in the State, which the Attorney General may select, for the forfeiture of its charter rights and franchises, and the dissolution of its corporate existence, and for such purpose venue is hereby given to each district court in the State of Texas.

"Section 11. Each and every firm person, corporation or association of persons, who shall in any manner violate the provisions of this act shall for each and every day that such violation shall be committed or continued, forfeit and pay a sum of not less than $50 nor more than $1500, which may be recovered in the name of the State of Texas, and venue is hereby given to such district courts, provided that when any such suit shall have been filed in any county and jurisdiction thereof acquired, it shall not be transferred to any other county except upon change of venue allowed by the court, and it shall be the duty of the Attorney General or the district or county attorney, under the direction of the Attorney General, to prosecute for the recovery of the same, and the fees of the district or county attorney for representing the State in all anti-trust proceedings, or for the collection of penalties for the violation of the anti-trust laws of this State, shall be 10 per cent of the amount collected up to and including the sum of $50,000 and 5 per cent on all sums in excess of the first $50,000, to be retained by him when collected, and all such fees which he may collect shall be over and above the fees allowed under the general fee bill; provided, that the provisions of this act as to the fees allowed the prosecuting attorney shall not apply to any case in which judgment has heretofore been rendered in any court nor to any moneys to be hereafter collected upon any such judgment heretofore rendered in any

court, whether such judgments are pending upon appeal or otherwise, and provided, further, that the district attorney who joins in the institution or prosecution of any suit for the recovery of penalties for a violation of any of the anti-trust laws of this State, who shall, previous to the collection of such penalties, cease to hold office, he shall be entitled to an equal division with his successor, of the fee collected in said cause, and in case of the employment of special counsel by any such district or county attorney, the contract so made shall be binding upon such prosecuting officer making such contract and thereafter retiring from office; provided, further, that in case any suit is compromised before any final judgment in the trial court is had, then the fees herein provided for shall be reduced one-half."

Sec. 2. The fact that there is no law giving venue to each district court to try cases arising under the anti-trust laws throughout the State, and the further fact that the penalties provided under the act of 1903 are inadequate to suppress violations of the law, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Committee Room,
Austin, Texas, April 11, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Enrolled Bills have carefully examined and compared Senate bill No. 8, and find it correctly enrolled, and have this day, at 10:30 o'clock a. m., presented same to the Governor for his approval.

TERRELL of McLennan, Chairman.

Following is the enrolled bill in full:

Senate bill No. 8.

An Act to carry into effect Article 132, Section 16 of the Constitution of the State of Texas in relation to a Texas State Board of Health and Vital Statistics Department; to abolish the present department of Public Health and Vital Statistics; to create a Texas State Board of Health; to provide for the appointment and organization of said board, and the name of its officers; to provide for the designation by the Governor of one member of said board as State Health Officer; to provide for the operation and maintenance of the State quarantine service; to define the qualifications of the members, officers and employes of the State Board of Health; to fix their salaries, and provide for office quarters and appliances of said board; to define the status of said board with relation to courts of the State, to confer upon said board discretionary powers concerning the defining and investigating nuisances detrimental to the public health, and the investigating and regulating of water supply and other investigations necessary concerning matters of public health and sanitation and quarantine and for the general discretionary powers concerning matters of public health and sanitation; and to delegate to said board under the police powers of this State authority to prepare, adopt, enact, promulgate and put into effect rules and regulations and requirements governing the promotion and protection of public health and safety, such rules and regulations to be incorporated into what shall be known as a sanitary code for Texas; to prescribe penalties within certain limits for the violation of the rules and regulations specified by said code; to define the duties of the courts of this State with respect to the enforcement of obedience and to the process of said board; to define the duties of the court with respect to compelling obedience and respect of witnesses when summoned to testify before said board; providing for compelling attendance by said board of witnesses in an investigation involving the exercise of the discretionary powers of said board, and declaring that any witness falsely testifying before said board shall be guilty of perjury; to confer upon the officers, members and inspectors of said board power of peace officers with power to make arrests for violation of the sanitary code and the health and sanitary laws of the State; to define the duties of the courts of the State relative to the enforcement of the law, rules, regulations and ordinances of the sanitary code for Texas; to define the duties of all peace officers of the State relative to apprehending and arresting offenders against said sanitary code for Texas; to confer upon said board power and authority to revise and amend the sanitary code for Texas, and to provide a method for promulgating and enforcing such amendments and revisions; to abolish the office of county physician in the several counties of

this State, and to create and define the office of county health officer instead, and to define the powers of said county health officer, and to prescribe penalties for neglect of duty on the part of said county health officer; to abolish the office of city physician within this State in the several incorporated cities and towns, and to create instead the office of city health officer; to define the qualifications and duties of city health officer, and the method of appointment to office, and a method of removal from office, and prescribing penalties for neglect of duty on part of city health officers; providing for annual conferences of county health officers and city health officers, and to declare an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That the Department of Public Health and Vital Statistics as now existing under the laws of this State is hereby abolished, and that there be created and established in its stead a State Board of Health, to be officially designated as Texas State Board of Health, which shall consist of seven members, who shall be legally qualified practicing physicians, who shall have had at least ten years experience in actual practice of medicine within the State of Texas, of good professional standing, and who shall be graduates of reputable medical colleges, to be appointed biennially by the Governor as soon as practicable after the passage of this bill, and thereafter on or before the 10th day of March following his inauguration. One member of said board, who shall be appointed by the Governor, and confirmed by the Senate, shall be designated by the Governor as State Health Officer, and who shall be president and executive officer of the board. The members of said board shall hold their office for a term of two years, and until their successors shall be appointed and qualified, unless sooner removed for cause.

Sec. 2. The president of said board shall receive annually a salary of $2500. The other six members of said board shall receive no salary, but each of said members shall be allowed for each and every day he shall be in attendance upon the meetings of the board the sum of $10, including the time spent in transit, and 3 cents per mile going and coming for actual expenses to be paid on their vouchers when approved by the president of the board and the Governor by warrant drawn by the Comptroller against the general appropriation provided by law for that purpose; provided, no member shall receive more than $500 annually.

Sec. 3. A majority of the members of the board shall constitute a quorum for the transaction of business. The board shall meet at Austin on the first Tuesday after appointment and commission, and thereafter shall meet quarterly on a day to be fixed by the board, or as often and at such times and places as such meetings shall be deemed necessary by the board. Timely notice of such meetings shall be given to each member of the board by the president thereof. The board shall be convened on call of the president, or on demand of three members of said board, made in writing to the president. The office of said board shall be in the Capitol at Austin, and the said board shall be furnished with all necessary equipments and supplies, including laboratory supplies, books, stationery, blanks, furniture, etc., as other officers of the State are furnished, including suitable rooms for its offices and laboratories, necessary for the carrying on the work of the board, and to be provided in the Capitol building or other suitable buildings to be designated by the Governor.

Sec. 4. The president of the board shall at the first meeting of the board appoint, with the approval of the Governor, the following:

(1) An Assistant State Health Officer, who shall be a legally qualified practitioner of medicine under the laws of the State of Texas, and who shall have had five years' experience in the practice of medicine in this State, whose duty it shall be to assist the president of the board in a general supervision of the affairs in his office and in the enforcement of quarantine and sanitation throughout the State. Said Assistant State Health Officer shall receive an annual salary of $2400.

(2) A Registrar of Vital Statistics, whose duty it shall be to correct, record, compile and tabulate the vital and mortuary statistics of the State as provided by law, and shall also be secretary of the board, and perform such other duties as may be directed by the president of the board, and he shall receive an annual salary of $1800.

(3) A chemist and bacteriologist, who shall be learned in chemistry, pathology and bacteriology, and he shall receive a salary of $1800 per annum. He shall make examination and analyses of such

things and matters as may be submitted to him by the board, or the State Health Officer, and shall report results of such examinations in such manner and form as may be directed by the board.

(4) One stenographer and bookkeeper combined at a salary of $1200 per annum.

(5) One inspector at a salary of $1800 per annum. It shall be the duty of such inspector to conduct such inspection as required by the board and the president of the board, and to assist in the enforcement of all sanitary and quarantine laws of the State, and to perform such other necessary services as may be prescribed by the president of the board.

Sec. 5. Members of the board shall qualify by taking the constitutional oath of office before an officer authorized to administer oaths within this State. Upon presentation of such oath of office, together with the certificate of their appointments by the Governor, the Secretary of State shall issue commissions of them, which shall be evidence of their authority to act as members of said board.

Sec. 6. The president of the board shall execute bond in the sum of $10,000. payable to the Governor, with two or more good and sufficient sureties thereon, conditioned for the faithful performance of his official duties, to be approved by the Governor, and filed in the office of the Secretary of State.

Sec. 7. The president of the board shall have charge of and superintend the administration of all matters pertaining to State quarantine, with authority to declare and enforce quarantine by and with the approval of the Governor, but the quarantine service shall be maintained upon its present operating basis and under the existing general laws relating thereto, and shall be operative under the existing appropriations until the end of the current fiscal year.

Sec. 8. There is hereby appropriated and set aside out of the general revenue of the State the sum of $8000, or as much thereof as shall be necessary to pay salaries of the members and officers of the board, its inspectors, assistants and employes for the remainder of the current fiscal year after their tenure of office begins.

Sec. 9. The State Board of Health shall have general supervision and control of all matters pertaining to the health of the citizens of this State. It shall make a study of the causes and prevention of infectious and contagious diseases within the State and except as otherwise provided in this act shall have direction and control of all matters of quarantine regulations and enforcement and shall have full power and authority to prevent the entrance of such diseases from points without the State, and shall have direction and control over all sanitary and quarantine measures for dealing with all such diseases within the State and to suppress same and prevent their spread.

Sec. 10. Power is hereby conferred on the Texas State Board of Health to prepare a sanitary code to be known as the "Sanitary Code for Texas," which shall provide rules and regulations for the promotion and protection of the public health and for the general amelioration of the sanitary and hygienic conditions within this State, for the supression and prevention of infectious and contagious diseases, and for the proper enforcement of quarantine, isolation and control of such diseases; provided, however, that where a patient can be treated with reasonable safety to the public health, he shall not be removed from his home without his consent, or the consent of the parents or guardian, in case of a minor, which said code, when so made, adopted, approved by the Governor, published and promulgated, shall have the force of law in all respects as far as relates to the following subjects:

(a). In the management of quarantine and disinfection with respect to all contagious, infectious diseases and exposures.

(b) In the government of quarantine and disinfection of all pestilential diseases, such as bubonic plague, Asiatic cholera, leprosy, typhus and yellow fever.

(c) For the inspection, sanitation and disinfection of all railway coaches (including interurban cars), sleeping cars, street cars, waiting rooms, toilet rooms in cars and stations, depots and stations; the regulations for the proper protection of the public water, ventilation and heat supplies in such places, and the sanitary conduct and condition of all persons within such places.

(d) Governing the reporting by physicians and health officers of the presence in any locality of all contagious and infectious diseases.

(e) Governing the manner and method of collecting and reporting all

vital and mortuary statistics, including reports of births and deaths, designating to whom and by whom such report shall be made and the form of same.

(f) Governing the preparation for transportation of dead bodies.

Provided, that said Texas State Board of Health shall prepare and adopt at such time as they may deem proper and expedient an "Advisory Supplement" to such "Sanitary Code for Texas" which shall contain rules and regulations on the following subjects:

(1) Prescribing and fixing the standard for disinfectants; requiring employment of disinfectants of proper quality and standard for the disinfection of all premises as directed by the board.

(2) Regulating the proper sanitary disposition of sewerage, garbage and offal, and the proper drainage of unsanitary premises.

(3) Governing the proper interment and disinterment of dead bodies.

(4) Regulating the examination and inspection both ante mortem and post mortem of all animals which may be intended for supplying food products or meat for human consumption; regulating and governing the protection of the public with reference to the sale and use of diseased animals for producing food products or meat; the manner of feeding to animals designated for producing food products for human consumption; all offensive or disease-producing foodstuffs; regulating the inspection, examination and management of all dairy cows and herds for the purpose of controlling and suppressing tuberculosis and other diseases liable to be communicated from animal to man.

(5) Regulating the sanitary condition of slaughter houses, meat markets and dairies.

(6) Rules and regulations for the sanitation and disinfection of public buildings; provided, that a public building is hereby declared to be any building owned by the State or any county or any city school building, college or university of every class, any dance hall, music hall, saloon, fire hall, skating rink, theater, theatorium, moving picture show, circus, pavilion, office building, hotel, lodging house, restaurant, lecture hall, place of public worship or any building or place used for the congregation, occupation or entertainment, amusement or instruction of the public.

(7) Rules and regulations to govern and control the conduct and operation of markets, peddlers' wagons, and all other places and methods of exposure for sale of meat, fish, poultry, game, fruits, vegetables and all perishable articles of food exposed for sale, and to regulate the time and method of such exposure, and to prescribe and limit methods for the preservation of such articles of food, and to prohibit the doing of any act or the use of any method with respect thereto, which said board shall deem prejudicial to the public health; provided, that any condemnation of any such article of food shall be in writing and a record of the same shall be kept by said health department.

Provided, that such "Advisory Supplement" to said "Sanitary Code for Texas" shall be advisory only. It shall be the duty of all city and county health officers, members of city councils, city and county commissioners to cooperate at all times with the Texas State Board of Health in enforcing the rules and regulations contained in such "Advisory Supplement," and any city or town in this State may by a majority vote of its city council or commissioners and whenever the subject matter relates to the public schools with the approval of a majority of the members of the school board of such city or town, adopt such "Advisory Supplement," and the rules and regulations therein contained shall thereafter have the full force and effect of law in such city or town; provided, that the commissioners court of any county in this State may by a majority vote adopt said "Advisory Supplement" to the "Sanitary Code for Texas" and thereafter the rules and regulations contained in such "Advisory Supplement" shall have the full force and effect of law outside of all incorporated cities and towns in such county.

Any person who shall violate any of the rules and regulations contained in the "Sanitary Code for Texas" as embraced in subdivisions a, b, c, d, e and f of this section, shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not less than $10 and not more than $1000.

Any person who shall wilfully violate any of the rules and regulations contained in the "Advisory Supplement" to the "Sanitary Code for Texas," embraced in subdivisions 1, 2, 3, 4, 6 and 7 of Section 11 of this act, when same shall have been adopted by the city or county in which said person shall have violated such rules and regulations, he shall be deemed guilty of a misdemeanor

and upon conviction shall be fined in any sum not less than $5.00 and not more than $200.

It shall be the duty of the said Texas Board of Health to investigate and to provide for the removal of known causes of disease; to provide for the extermination of obnoxious and hurtful insects, vermin and rodents when necessary to prevent and suppress disease.

For the compilation and preparation of such code, it shall be the duty of the board to consult authorities and make investigations relative to the most approved modern sanitary codes and spare no pains to make the same complete in the light of modern science.

On adoption of the said code by votes of a majority of the members of the board, and approved by the Governor, it shall be published at length for one time in the official monthly bulletin of the State Board of Health, and at least three times for three consecutive weeks in three daily newspapers in the State, after which adoption, approval and publication, it shall become operative and have the absolute force of law, and any person who shall violate any of the rules, regulations in said sanitary code after its adoption and publication as above provided for shall be deemed guilty of a misdemeanor and upon conviction shall be fined as herein prescribed.

And it is hereby made the duty of the several courts of this State having jurisdiction over such offenses, according to the grade thereof, to enforce and carry into effect each and all of the rules and regulations as promulgated in said "Sanitary Code for Texas," when they have the force and effect of law as provided herein, and to impose and collect penalties in the amounts therein specified from all persons found guilty of any violations thereof.

There shall be printed by the board and by it published in pamphlet form a sufficient number of copies of the "Sanitary Code for Texas" for distribution to the public. Copies shall be furnished free upon application to county and municipal health authorities, boards of health, mayors, members of city councils, city commissioners and judges and clerks of courts. Copies of said code shall be furnished by the board upon application to any person applying therefor and paying a nominal sum, to be fixed by the board, to cover the cost of publication and transportation of same.

Provided, this act shall not be construed to repeal any of the laws of this State now in force affecting the public health, but shall be construed to be cumulative to said laws, and the Board of Public Health is hereby authorized to promulgate rules and regulations for all laws relating to the public health now in force in this State.

Sec. 11. Power is hereby conferred upon the Texas State Board of Health to further revise and amend said sanitary code for Texas at any time they may deem proper and expedient; provided, that such revision and amendment shall come within the scope of the power herein conferred upon the board for enacting the original code.

Sec. 12. It shall be the duty of said Texas State Board of Health to perform all functions and duties now imposed by existing laws upon the State Health Officer, and whenever State Health Officer is mentioned in the present laws the Texas State Board of Health shall be deemed to succeed in purpose and effect, whenever such statutes are not in conflict with this act.

Sec. 13. Each member of the said Texas State Board of Health and each of its inspectors and officers is hereby constituted a peace officer and shall have power to arrest persons violating any of the provisions of the sanitary code to be adopted by the board, of the violation of any public health, sanitary or quarantine law of the State, and such member, officer or inspector may so arrest such offenders without warrant when the offense is committed within the presence or sight of such member, officer or inspector, but otherwise only when in the execution of a warrant issued by a proper officer.

It is hereby made the duty of all sheriffs and their deputies and constables and their deputies, police officers, town marshals, State rangers and all other peace officers to assist in the apprehension and arrest of all persons violating any provisions, rules, ordinances or laws of the sanitary code for Texas as it may be adopted by said board, or for violation of any public health, sanitary or quarantine laws of the sanitary code for Texas as it may be adopted by said inspectors and officers of said board to apprehend and arrest all persons who may commit any offense against the public health laws of this State, or the rules, regulations, ordinances and laws of the sanitary code for Texas when

adopted, published and promulgated by said Board of Health, as provided in this act, when charged to execute a warrant of arrest issued by the proper officer for the apprehension and arrest of all persons charged with so offending.

Sec. 14. The members of the Board of Health and every person duly authorized by them upon presentation of proper authority in writing are hereby empowered whenever they may deem it necessary in pursuance of their duties to enter into, examine, investigate, inspect and view all grounds, public buildings, factories, slaughter houses, packing houses, abattoirs, dairies, bakeries, manufactories, hotels, restaurants and all other public places and public buildings where they may deem it proper to enter for the discovery and suppression of disease and for the enforcement of the rules, regulations and ordinances of the sanitary code for Texas after it has been adopted, promulgated and published by the board for the enforcement of any and all health laws, sanitary laws or quarantine regulations of this State.

Sec. 15. The members of said Board of Health and its officers are hereby severally authorized and empowered to administer oath and to summon witnesses and compel their attendance in all matters proper for the said board to investigate, such as the determination of nuisances, investigation of public water supplies, investigation of any sanitary conditions within the State, investigation of the existence of infection or the investigation of any and all matters requiring the exercise of the discretionary powers invested in said board and its officers and members and in the general scope of its authority invested by this act. The several district judges and courts are hereby charged with the duty of aiding said board in its investigations and in compelling due observance of this act, and in the event any witness summoned by said board or any of the officers or members of the same shall prove disobedient or disrespectful to the lawful authority of such board, officer or member, such person shall be punished by the district court of the county in which such witness is summoned to appear as for contempt of said district court.

Sec. 16. Any witness when summoned to appear before said board who shall falsely testify as to any matters proper for the determination of any question which the board may be investigating shall be deemed guilty of perjury, and shall be punished as provided by law for the offense of perjury.

Sec. 17. Be it further enacted that the office of county physician shall be abolished within the several organized counties of this State, and that instead the office of county health officer is hereby created in each organized county within this State.

Sec. 18. The office of county health officer shall be filled by a competent physician legally qualified to practice under the laws of the State of Texas and of reputable professional standing.

Sec. 19. It is hereby made the duty of the commissioners court by a majority vote of each organized county to appoint a proper person for the office of county health officer for his county, who shall hold office for two years and until his successor shall be appointed and qualify, unless sooner removed for cause; provided, however, that in all counties where there is a duly appointed and acting county physician heretofore appointed the county judge shall appoint such county physician as county health officer. Said county health officer shall take and subscribe to the constitutional oath of office, and shall file a copy of such oath of office and a copy of his appointment with the Texas State Board of Health, and until such copies are so filed said officer shall not be deemed legally qualified. Compensation of said county health officer shall be fixed by the commissioners court; provided, that no compensation or salary shall be allowed except for services actually rendered.

Sec. 20. The office of city physician for the several incorporated cities and towns within this State is hereby abolished, and instead created the office of city health officer; provided, however, that city physicians now in office shall serve as city health officers until the expiration of their present term.

Sec. 21. The office of city health officer shall be filled by a competent physician, legally qualified to practice medicine within this State, of reputable professional standing.

Sec. 22. It is hereby made the duty of the city council or the city commissioners, as the case may be, of each incorporated city and town within this State to elect a qualified person for the office of city health officer by a majority of the votes of the city council or city commission, as the case may be, except in cities which may be operated under a charter providing for a different method of selecting city health physicians, in which event the office of city

health officer shall be filled as is now filled by the city physician, but in no instance shall the office of city health officer be abolished.

The city health officer, after appointment, shall take and subscribe to the constitutional oath of office, and shall file a copy of such oath and a copy of his appointment with the Texas State Board of Health, and shall not be deemed to be legally qualified until said copies shall have been so filed.

Sec. 23. In case the authorities hereinbefore mentioned shall fail, neglect or refuse to fill the office of county or city health officer as in this act provided, then the Texas State Board of Health shall have the power to appoint such county or city health officer to hold office until the local authorities shall fill such office, first having given ten days' notice in writing to such authority of the desire for such appointment.

Sec. 24. Each county health officer shall perform such duties as have heretofore been required of county physicians with relation to caring for the prisoners in county jails and in caring for the inmates of county poor farms, hospitals, discharging duties of county quarantine and other such duties as may be lawfully required of the county physician by the commissioners court and other officers of the county, and shall discharge any additional duties which it may be proper for county authorities under the present laws to require of county physicians, and in addition thereto he shall discharge such duties as shall be prescribed for him under the rules, regulations and requirements of the Texas State Board of Health or the president thereof, and is empowered and authorized to establish, maintain and enforce quarantine within his county. He shall also be required to aid and assist the State Board of Health in all matters of local quarantine, inspection, disease, prevention and suppression, vital and mortuary statistics and general sanitation within his county, and he shall at all times report to the State Board of Health in such manner and form as it shall prescribe the presence of all contagious, infectious and dangerous epidemic diseases within his jurisdiction, and he shall make such other and further reports in such manner and form and at such times as said Texas State Board of Health shall direct, touching such matters as may be proper for said State Board of Health to direct, and he shall aid said State Board of Health at all times in the enforcement of its proper rules, regulations, requirements and ordinances and in the enforcement of all sanitary law and quarantine regulations within his jurisdiction.

Sec. 25. In all matters with which the State Board of Health may be clothed with authority, said county health officer shall at all times be under its direction, and any failure or refusal on the part of said county health officer to obey the authority and reasonable commands of said State Board of Health shall constitute malfeasance in office, and shall subject said county health officer to removal from office at the relation of the State Board of Health, and pending charges for removal said county health officer shall not receive any salary or compensation, which cause shall be tried in the district court of the county in which such county health officer resides.

Sec. 26. In the event any county health officer shall fail or refuse to properly discharge the duties of his office, as prescribed by this act, the State Board of Health shall file charges with the commissioners court for the proper county specifying wherein such officer has failed in the discharge of his duties, and at the same time the State Board of Health shall file a protest with the county clerk and the county treasurer against the payment of further fees, salary or allowance to said county health officer, and pending such protest and charges it shall not be lawful for such county health officer to be paid or to receive any subsequently earned salary, fees or allowance on account of his office, unless such charges are shown to be untrue and are not sustained. After five days' notice in writing to said county health officer the commissioners court shall hear the charges, at which hearing the county judge shall preside, and the State Board of Health may be represented. Either party, the State Board or the county health officer, may appeal from the decision of said court to the district court of the county, and pending such appeal no salary, fees or allowance shall be paid to said county health officer for any subsequent earned salary, and in the event the charges shall be sustained, the said county health officer shall be charged to pay all costs of court, and shall forfeit all salary, fees and allowances, earned subsequent to the date of filing the charges and protests.

Sec. 27. No bond for costs or bond on appeal or writ of error shall be re-

quired of the State Board of Health or State officials in any actions brought or maintained under this act.

Sec. 28. Each city health officer shall perform such duties as may now or hereafter be required by the city councils and ordinances of city physicians and such duties as may be required of him by general law and city ordinances with regard to the general health and sanitation of towns and cities, and perform such other duties as shall be legally required of him by the mayor, councils, commissioners or the ordinances of his city or town. He shall in addition thereto discharge and perform such duties as may be prescribed for him under the directions, rules, regulations and requirements of the State Board of Health and the president thereof. He shall be required to aid and assist the State Board of Health in all matters of quarantine, vital and mortuary statistics, inspection, disease, prevention and suppression and sanitation within his jurisdiction. He shall at all times report to the State Board of Health in such manner and form as shall be prescribed by said Board of Health the presence of all contagious, infectious and dangerous epidemic diseases within his jurisdiction, and shall make such other and further reports in such manner and form and at such times as said State Board of Health shall direct touching all such matters as may be proper for the State Board of Health to direct, and he shall aid said State Board of Health at all times in the enforcement of proper rules, regulations and requirements in the enforcement of all sanitary laws, quarantine regulations and vital statistics collection, and perform such other duties as said State Board of Health shall direct.

In all matters in which the State Board of Health may be clothed with authority said city health officer shall at all times be governed by the authority of said Board of Health, and failure or refusal on the part of said city health officer to properly perform the duties of his office as prescribed by this act shall constitute malfeasance in office and shall subject said city health officer to removal from office at the relation of the State Board of Health, which cause shall be tried in the district court of the county in which such city health officer resides.

In the event of a failure or refusal of said city health officer to properly discharge his duties of his office the State Board of Health shall file charges against said city health officer with the council or city commission of the proper town or city, which shall specify in what particulars said city health officer has failed in respect to the discharge of his duties, and shall at the same time file a protest with the city secretary and city treasurer against the payment of said city health officer of further fees, salary or allowance, and pending such charges and protest no further salary, fees or allowance shall be paid to said city health officer, unless such charges are shown to be untrue and not sustained. After five days' notice in writing to said city health officer, the charges shall be heard before the mayor and council, or the mayor and commission of the town or city in which said city health officer shall reside, at which hearing the State Board of Health may be represented, and either the city health officer or the State Board of Health shall have the right to appeal to the county court of the county in which the city or town is situated, and if said charges be sustained said city health officer shall be adjudged to pay all costs of court, and shall forfeit all salary, fees and allowances accrued subsequent to the date of the filing of the charges and protest originally and which may be due him on account of his office.

Sec. 29. The compensation of city health officer shall be fixed by the mayor and council, or the mayor and commissioners of the respective towns and cities within this State.

Sec. 30. There shall be an annual conference of county health officers and city health officers of this State, at such time and place as the State Board of Health shall designate, at which conference the president or some member of the said State Board of Health shall preside. The several counties, towns and cities may provide for and pay the necessary expense of its county health officer or city health officer for attendance upon said conference.

Sec. 31. In all matters wherein the Board of Health shall invoke the assistance of the courts, the action shall run in the name of the State of Texas, and the Attorney General shall assign a special assistant to attend to all legal matters of the board, and upon demand of the board it shall be the duty of the Attorney General to promptly furnish the necessary assistance to the board to attend to all its legal requirements.

Sec. 32. The fact that there is now no uniform and efficient law for the suppression and prevention of disease within this State, other than that of foreign origin, and no effective system for preserving, tabulating and utilizing the vital and mortuary statistics of the State and for the appointment of local health officers, creates an emergency and imperative public necessity that the constitutional rule providing that bills be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.